

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re

Michael D. Carlin,

Debtor.

X Return Date: February 5, 2009  
Hearing Time: 10:00 a.m.

Case No. 08-B-11689  
Chapter 13  
Martin Glenn, U.S.B.J.

**NOTICE OF MOTION**

X

**MOTION BY:**

**MICHAEL D. CARLIN**, attorney for debtor, *pro se*

**TIME AND DATE:**

February 5, 2009 at 10:00 a.m.

**PLACE OF HEARING:**

United States Bankruptcy Court, S.D.N.Y.  
One Bowling Green, Room 501, New York, N.Y.  
10004-1408

**SUPPORTING PAPERS:**

Objections by **MICHAEL D. CARLIN**, dated December 10, 2008, with exhibits attached thereto, and upon the prior proceedings herein.

**RELIEF DEMANDED:**

(A) For an order pursuant to U.S.C. 502 and Fed. R. Bankr. Pro. 3001, 3007 disallowing the following creditors, all of which are unsecured, except for claims #18 and 20, which are allegedly partially secured:

| NAME OF CREDITOR   | CLAIM NO. | DATE OF FILING | AMOUNT   |
|--|-----------|----------------|----------|
| American Express   | 4         | 6/11/08        | 1507.09  |
| American Express   | 9         | 7/9/08         | 17964.07 |
| LVNV Funding LLC<br>its successors and<br>assigns as assignee of<br>Citibank | 7         | 6/20/08        | 3183.23  |

|   |    |         |   |
|---|----|---------|---|
| LVNV Funding LLC<br>its successors and<br>assigns as assignee of<br>Citbank | 8  | 6/30/08 | 3446.47                                     |
| ECAST<br>SETTLEMENT<br>CORPORATION<br>ASSIGNEE OF<br>CAPITAL ONE<br>BANK    | 10 | 7/17/08 | 4089.56                                     |
| FIA CARD<br>SERVICES  | 11 | 8/11/08 | 3729.83                                     |
| CHASE BANK USA<br>NA BY ECAST<br>SETTLEMENT<br>CORPORATION                  | 12 | 8/11/08 | 3179.30                                     |
| CHASE BANK USA<br>NA BY ECAST   | 13 | 8/11/08 | 3856.72                                     |
| FIA CARD<br>SERVICES AKA<br>BANK OF<br>AMERICA                              | 14 | 8/11/08 | 998.85                                      |
| CHASE<br>MANHATTAN<br>BANK  | 15 | 8/11/08 | 2402.25                                     |
| FIA CARD<br>SERVICES  | 16 | 8/13/08 | 14805.02                                    |
| RBS CITIZENS NA   | 17 | 9/4/08  | 730.89                                      |
| DELL FINANCIAL<br>SERVICES  | 18 | 9/15/08 | UNSECURED<br>\$512.90; SECURED:<br>\$593.26 |
| ROUNDUP<br>FUNDING, LLC   | 19 | 9/15/08 | 946.00                                      |
| ROUNDUP<br>FUNDING  | 20 | 9/15/08 | 2227.84                                     |

|                    |    |         |         |
|--------------------|----|---------|---------|
| ROUNDUP<br>FUNDING | 21 | 9/15/08 | 2830.34 |
|--------------------|----|---------|---------|

on the ground, inter alia, that the claims are deficient in that they fail to comply with the requirements contained in Fed.R.Bankr. Pro. 3001(a) that when a proof of claim is based on a writing, an original or duplicate of the writing must be filed with the proof of claim and that the proof of claim "shall conform substantially to the appropriate Official Form" and on the ground that the claims are "unenforceable against the debtor[s] and property of the debtor[s], under any agreement or applicable law" pursuant to 11 U.S.C. 502(b)(1);

(B) With respect to claims #4 and 9, the debtor asserts that the interest rates and fees charged by this creditor are unauthorized, excessive, and unconscionable;

(C) With respect to claims #18 and 20, the debtor asserts that these claims are duplicative of one another and should be dismissed; Also, the claim is being falsely presented as a secured claim when no security interest was ever perfected;

(D) Such further relief as to this Court seems just and proper.

**PLEASE TAKE FURTHER NOTICE** that objections to the above-stated relief, if any, must be made in writing and must be served and received by the undersigned at the below address, and filed with the clerk of the Court, with a copy to the chambers of the Honorable Martin Glen, no later than three (3) days prior to the above-stated return date.

Dated: New York, New York

December 10, 2008

**MICHAEL D. CARLIN**

*Attorney for Debtor*

27 Broadway, 21st Floor,

New York, N.Y. 10004

(212) 269-3100

By:



**MICHAEL D. CARLIN (2914)**

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re

MICHAEL D. CARLIN,

Debtor.

Case No. 08-B-11689  
Chapter 13  
Martin Glenn, U.S.B.J.

**OBJECTIONS BY DEBTOR TO  
PROOFS OF CLAIMS**

X

**HONORABLE MARTIN GLENN, BANKRUPTCY JUDGE:**

The application of MICHAEL D. CARLIN (the "Debtor") objecting to the allowance of the unsecured claims # 4, 9, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, respectfully alleges:

1. On May 5, 2008, the Debtor filed with this court a petition pursuant to Chapter 13 of Title 11 U.S.C. (the "Bankruptcy Code"). Jeffrey L. Sapir was appointed the Chapter 13 Trustee. The first meeting of creditors was held and closed on June 26, 2008. A confirmation hearing was held on Aug. 21, 2008 and subsequently adjourned to Dec. 11, 2008.

2. This court has jurisdiction over this motion pursuant to 28 U.S.C. sections 157 and 1334. Venue of this case and this motion in this district is proper pursuant to 18 U.S.C.sections 1408 and 1409. The statutory predicated for relief sought herein are Title 11 U.S.C. 502 and Fed.R.Bank.Pro. 3001 and 3007.

3. By this motion, the Debtor seeks to disallow the claims identified in the attached notice of motion. Copies of the proofs of claims have been annexed to this motion as Exhibit A.

4. Bankruptcy Rule 3001 requires that when a proof of claim is based on a

writing, an original or duplicate of the writing must be filed with the proof of claim<sup>1</sup>. Rule 3001(a) also states that the proof of claim “shall conform substantially to the appropriate official Form<sup>2</sup>.” A review of the proofs of claim objected to reveals that they are devoid of any documentation as to the liability of the debtor aside from a “summary sheet” attached to the claim form which simply repeats the information filled in on the claim form. The claims do not establish a *prima facie* showing that there are valid contracts between the debtor and the respective creditors, nor how the amounts were computed.

5. Line 7 of Official Form B10 sets forth what type of supporting documents will act as evidence of the validity of the claim:

“7. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.”

6. The purpose of these rules is to ensure that debtors and other interested parties have sufficient information to determine whether to object to the claim. Without such evidence, it is impossible to determine whether the amount claimed by the creditor has been inflated with the imposition of illegal post-petition interest or fees. As a minimum, recent court decisions have required creditors to produce sufficient number of monthly account statements to show how

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<sup>1</sup>Fed. R. Bankr. Pro. 3001(c). If the writing has been lost or destroyed, a statement describing the loss or destruction must be filed.

<sup>2</sup>Fed. R. Bankr. Pro. 3001(a). The directions to Official Form 10, Proof of Claim, provide ‘[c]reditors must attach to the proof of claim form copies of any documents showing the debtor owes the debt claimed or, if the documents are too lengthy, a summary of those documents.’

the total amount has been calculated as well as a copy of the original agreement authorizing the charges and fees included in the claim<sup>3</sup>. The form of the existing claims filed by the creditors in this case denies the Court, the Trustee, and the Debtor the opportunity to determine the validity of the claims in question and the extent to which the amount of the claim is accurate. This unfairly shifts the burden of determining the validity to the Debtor who is far less sophisticated than the claim filers in understanding credit transactions, average daily balance computations and what is the precise method to determine the accrued interest on the account. Moreover, as is further discussed below, the above-referenced proofs of claim are “unenforceable against the debtor and property of the debtor[s] property of the debtor[s], under any agreement or applicable law” pursuant to 11 U.S.C. 502(b)(1). As is further discussed below, under New York law, a debt buyer or assignee must prove by a “preponderance of the evidence” that it owns the debt which it is trying to collect. The creditors who filed as assignees have not submitted documentary evidence to establish that they are the true owners of these debts.

7. The debtor has written to each of the creditors in question, requesting verification and proof of the claims in question. Copies of the letters have been annexed to this motion and a part of Exhibit A. To date, the only responses received on behalf of these creditors were two E-mail letters dated November 11, 2008 and November 20, 2008, Exhibit B.

#### **A. Claims #4 and 9 by American Express**

8. The debtor objects to these claims on multiple grounds. First, there is a lack of the required documentation. Secondly, the debtor asserts that he did not sign any agreement with this creditor and never specifically agreed to the excessively high and usurious interest rates

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<sup>3</sup>See *In re Henry*, slip op. BK No. 03-25104 (Bankr. W.D. Wash. Apr. 14, 2004)

charged by this creditor in addition to the other exorbitant and generally unconscionable fees.<sup>4</sup> Thirdly, the debtor and this creditor entered into an agreement, effective on or about December 15, 2005, which provided that this creditor would waive interest and penalties, if the debtor continued to make payments in the stipulated amount, according to which agreement the Debtor faithfully complied until he was compelled to file his Chapter 13 petition on May 5, 2008. Upon filing for Chapter 13, this creditor sought to penalize the debtor by almost tripling the amount of the debt on claim #9, on which the debtor had paid \$9375.31 between 12/19/05 and 4/30/08, thereby, according to the parties' agreement, reducing the balance from \$15,494.03 to \$6,118.72. However, the proof of claim in question, #9, demands an unconscionable \$17,964.07. In other words, this creditor seeks to add an additional \$11,845.35 to the agreed upon amount of the debt as a penalty for the debtor's having to file a bankruptcy petition despite

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<sup>4</sup>Similarly, Courts have refused in similar cases to permit credit card agreements to modify unilaterally credit card agreements to include arguably unconscionable terms where, as here, there was no specific agreement on the part of the card holder to do so. **SHIFRA M. STONE vs. GOLDEN WEXLER & SARNESE, P.C., SHARINN & LIPSHIE, P.C., and CAPITAL ONE BANK, 341 F. Supp. 2d 189:** "In Badie, as here, the bank sought to "add an entirely new *kind* of term to the original account agreements"--agreements "which did not include any provision regarding the method or forum for resolving disputes." *Id.* at 283 (emphasis in original). Thus, the court found that principles of contract modification did not support the bank's position.

The court next addressed whether the bank's attempt to exercise its discretionary power under the change-in-terms provision conformed with the duty of good faith and fair dealing. The court concluded that:

the Bank reserved to itself the unilateral and nonnegotiable right to vary every aspect of the performance required by the parties to the account agreements. The Bank's interpretation of how broadly it may exercise that right, with no limitation on the substantive nature of the changes it may make as long as it complies with the *de minimis* procedural requirement of 'notice,' virtually eliminates the good faith and fair dealing requirement from the Bank's relationship with its credit account customers . . ."

the fact that the debtor faithfully paid \$9375.31 during this period of approximately 2 years and 4 months prior to filing for bankruptcy.

9. Likewise with respect to claim #4, the original balance was stipulated to be \$2,475.25 on Dec. 19, 2005. Thereafter, the Debtor paid \$1,547.74, thereby reducing the balance to \$927.51. This agreement is reflected in the letter, dated Nov. 11, 2008, Exhibit B, which acknowledges that the debtor had faithfully paid the stipulated monthly payment of \$53. Therefore, since the debtor filed a bankruptcy petition on May 5, 2008, this creditor seeks to penalize the Debtor by demanding an additional \$546.80 in interest and penalties.

10. This agreement is also memorialized in a letter regarding claim #9 from American Express, dated Feb. 8, 2008, Exhibit C, which reflects this agreement to waive all interest and penalties during the repayment period and which set the amount due as of 2/8/08 as \$8392.02, which is less than half the amount currently demanded by this creditor in claim #9.

11. Claim #4 demands interest at the rate of 18.24% as per their proof of claim. Exhibit A. Claim #9 demands interest at the rate of 27.99%. Ibid. The maximum interest rate in New York State is generally 16% per annum. *GOL § 5-501; Banking Law § 14*. The penalties assessed with respect to usurious loans with interest in excess of the statutory maximums can involve the lender's forfeiture of the entire loan balance. *GOL § 5-511. Banking Law § 108(6)*. While the creditor may under certain circumstances be entitled to charge interest rates in excess of the maximum New York State legal interest rate, such an assent to such unconscionably high interest rates should be clearly be granted by the debtor. In this case, the debtor never agreed to such excessive and usurious interest rates, nor should his mere use of the cards years earlier be construed as a blanket consent to the unconscionably high interest rates demanded by the

creditor in this case.

12. Attached hereto as Exhibit D is a computer printout of the payments collected by the Debt Collection Agency and remitted to this creditor during the period from 12/05 through 05/08.

13. The agreements attached to the E-mails, Exhibit B, consist of boilerplate, three column documents, which number 11 pages in the case of claim #4 and 10 pages in the case of claim #9. The agreement produced by the creditor in support of claim #4 bears a date "10/06", which is a date long after the debtor first received the credit card in question and long after he stopped using it. The agreement produced in support of claim #9 is dated "5/05," which likewise is long after the debtor first received the credit card in question. Neither one of these documents bears the debtor's signature, nor is there any proof that the documents were in fact sent to, or received by, the debtor. Nor is there any evidence that the debtor ever agreed to any of the terms in these agreements. The debtor never specifically agreed to any of the interest rates and penalties later charged by the creditor in connection with these cards. For example, during the period from 12/05 through 4/08, when the debtor faithfully complied with his obligation to send appr. \$347 monthly to this creditor, the creditor continued to gouge the debtor with excessive, unconscionable fees, such as a monthly "Delinquency Fee Assessment" in the amount of \$38 and on "Overlimit Fee Assessment" in the amount of \$35, in addition to the appr. 30% interest rate. See representative statements, Exhibit E. It is such unconscionable gouging of debtors in financial distress which has brought discredit to the credit card industry.

14. Finally, the statements attached to the creditors' E-mails do not reflect any of the original charges which presumably constituted a portion of the principal amounts reported in

the statements provided, which only consist of statements sent *after* the debtor stopped using the cards. Thus, the creditor failed to comply with the debtor's letter dated Oct. 29, 2008, demanding: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc. (In re Heath)*, 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *In Re: Dale J. Porter* 374 B.R. 471 at 481.

[Underlining added].

#### **B. Claims # 7 and 8 filed by LVNV Funding**

15. LVNV appears to claim to be an assignee from Citibank. However, the attached "Bill of Sale and Assignment of Accounts," attached to proof of claim, Exhibit A, does not identify these specific accounts as being transferred, nor do they mention this Debtor. Additionally, the documents in question refer to the buyer as "NVLV Funding LLC ("Subsequent Buyer")." However, there is no documentation of either a subsequent assignment to LVNV, nor is there evidence that "NVLV Funding LLC ("Subsequent Buyer")" is the same party as LVNV Funding. It is therefore submitted that this documentation is deficient. The debtor has received no response from this creditor to his Oct. 29, 2008 letters, Exhibit A, which demanded: "Pursuant to relevant Bankruptcy Court authority (*In re Armstrong*, 320 B.R. at 106; *In Re: Dale J. Porter* 374 B.R. 471), please send to the debtor at the address listed above verification that LVNV Funding LLC. purchased this account from any other entity. In

accordance with the Uniform Commercial Code, please provide copies of the Assignment(s) and other documents showing that LVNV Funding LLC is the Assignee of the debt and that you are legally authorized to collect this debt from the debtor. Please also provide the full corporate names and addresses of the original creditor(s). If LVNV Funding LLC did not receive this account from the original creditor, provide documentation of assignment(s) from the original creditor to the creditor from whom LVNV Funding LLC was assigned the account."

Additionally, the creditor failed to provide the following additional documentation (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc. (In re Heath)*, 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471 at 481.

16. The debtor does not know this creditor and has no proof that this creditor is in fact the true owner of this debt. This creditor did not respond to the debtor's letters.

**C. Claim # 10 filed by Ecast Settlement Corp. Assignee of Capital One**

17. Ecast has submitted no sufficient documentation of any assignment from Capital One. The creditor failed to comply with the debtor's Oct. 29, 2008 letter: "Pursuant to relevant Bankruptcy Court authority (*In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471), please send to the debtor at the address listed above verification that Ecast Settlement Corp. purchased this account from Capital One. In accordance with the Uniform

Commercial Code, please provide copies of the Assignment(s) and other documents showing that Ecast Settlement Corp. is the Assignee of the debt and that you are legally authorized to collect this debt from the debtor. Please also provide the full corporate names and addresses of the original creditor(s). If Ecast Settlement Corp. did not receive this account from the original creditor, provide documentation of assignment(s) from the original creditor to the creditor from whom Ecast Settlement Corp. was assigned the account.” Exhibit A.

18. The proposed evidence of assignment of this debt, Exhibit F, does not identify this debtor, nor the account in question. According to the case of *In Re: Dale J. Porter* 374 B.R. 47, this documentation is insufficient to establish a *prima facie* case of an assignment of this claim. “When the creditor is an account assignee, the proof of claim also must specify either the original account number (and original account creditor) or an account number (and creditor) to which the debtor directed at least one prepetition payment. 16 Cf. *In re Hughes*, 313 B.R. at 212 (“In the event the claimant is an assignee of a debtor’s original creditor, a claimant must attach . . . sufficient information to identify the original credit card account.”).” *In Re: Dale J. Porter* 374 B.R. 471 at 481. The debtor does not know this creditor, and has no proof that this debtor is in fact the owner of any debt owed by the debtor.

#### **D. Claim #11 filed by Ecast Settlement**

19. Likewise with respect to claim #11, the debtor has sent the same letter to this creditor demanding: “Please be advised that the debtor disputes whether Ecast Settlement Corp. either purchased or was assigned this or any other one of debtor’s accounts. Pursuant to relevant Bankruptcy Court authority (*In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471), please send to the debtor at the address listed above verification that Ecast Settlement

Corp. purchased this account from Bank of America. In accordance with the Uniform Commercial Code, please provide copies of the Assignment(s) and other documents showing that Ecast Settlement Corp. is the Assignee of the debt and that you are legally authorized to collect this debt from the debtor. Please also provide the full corporate names and addresses of the original creditor(s). If Ecast Settlement Corp. did not receive this account from the original creditor, provide documentation of assignment(s) from the original creditor to the creditor from whom Ecast Settlement Corp. was assigned the account.” Exhibit A.

20. Additionally, the statements sent to the debtor by E-mail do not reflect any of the original charges, nor does it contain a copy of the original agreement. Therefore, it is impossible to calculate the correct amount of the debt, including the amount of past interest and other charges. Therefore, this creditor did not comply with the demand: “Please be advised that the debtor also disputes the liability and the amount claimed in this proof of claim. In reliance upon relevant Bankruptcy Court authorities, the debtor is entitled to demand and now hereby demands the following supporting documentation: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc. (In re Heath)*, 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *In Re: Dale J. Porter* 374 B.R. 471 at 481.” Exhibit A.

**E. Claim #12, 13, 14, and 15 filed by Ecast**

21. The debtor makes the same objections with respect to these four claims as with respect to claim #11. First, the debtor was not sent a copy of any agreement, nor did he receive any statement reflecting the original charges allegedly made by the debtor. Additionally, the debtor was not sent a copy of the assignment. If such an assignment exists, the debtor doubts if it complies with the requirements set forth above: "When the creditor is an account assignee, the proof of claim also must specify either the original account number (and original account creditor) or an account number (and creditor) to which the debtor directed at least one prepetition payment. 16 *Cf. In re Hughes*, 313 B.R. at 212 ("In the event the claimant is an assignee of a debtor's original creditor, a claimant must attach . . . sufficient information to identify the original credit card account.")." *in Re: Dale J. Porter* 374 B.R. 471 at 481. The debtor does not know this creditor, and has no proof that this debtor is in fact the owner of any debt owed by the debtor.

#### **F. Claim No. 16**

22. The debtor repeats many of the same objections as he made to the earlier claims, including the fact that he was never sent a copy of the alleged credit card agreement, nor was he sent any of the statements, indicating any charges made by the debtor. Therefore, this creditor failed to comply with the debtor's Oct. 29, 2008 letter demanding: "Please be advised that the debtor also disputes the liability and the amount claimed in this proof of claim. In reliance upon relevant Bankruptcy Court authorities, the debtor is entitled to demand and now hereby demands the following supporting documentation: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc. (In re Heath)*, 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2)

account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *In Re: Dale J. Porter* 374 B.R. 471 at 481." Exhibit A.

#### **G. Claim #17 filed by RBS Citizens**

23. The debtor repeats many of the same objections as he made to the earlier claims, including the fact that he was never sent a copy of the alleged credit card agreement, nor was he sent any of the statements, indicating any charges made by the debtor. In fact this creditor did not respond at all to the debtor's 10/29/08 letter. Therefore, this creditor failed to comply with the debtor's Oct. 29, 2008-letter demanding: "Please be advised that the debtor also disputes the liability and the amount claimed in this proof of claim. In reliance upon relevant Bankruptcy Court authorities, the debtor is entitled to demand and now hereby demands the following supporting documentation: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc. (In re Heath)*, 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *In Re: Dale J. Porter* 374 B.R. 471 at 481." Exhibit A.

#### **H. Claim # 18 and 22 filed by Dell Financial Services**

24. The debtor objects to the claim on several grounds. First, these two claims appear to be duplicative of each other. Second, this is not a secured claim since there was no evidence that this claim was ever perfected. Third, there are no statements indicating the original charges, if any, and when they allegedly occurred. Likewise, the creditor never responded to the debtor's Oct. 29, 2008 letter, demanding this documentation.

#### **I. Claim #19, 20, and 21 filed by Roundup Funding, LLC**

25. The debtor sent two letters to this creditor, demanding documentation of any assignment as well as the original agreement, charges, interest rates, etc. Exhibit A. To date, this creditor has sent no reply. For all reasons described with respect to the other assigned claims, the debtor moves to expunge these claims as well.

#### **DISCUSSION**

26. A creditor who failed to prove through sufficient evidence that it was the transferee of an unsecured Chase Cardmember Service credit card account failed to establish that it was a creditor and consequently had its proof of claim disallowed in the debtor's bankruptcy pursuant to Bankruptcy Code Sections 501(1) and 502(a), the U.S. Bankruptcy Appellate Panel for the First Circuit ruled on July 8, 2008, affirming (*B-Real LLC v. Melillo, in re Melillo*) B.A.P. 1st Cir., No. MB 07-060, July 8, 2008. Exhibit G. In its discussion, the Court distinguished between the "nonexclusive" approach under which a claim can be disallowed when supporting documents are not attached to a proof of claim as is required by Rule 3001 and the "exclusive approach" under which the list enumerated in Section 502(b) is exclusive and a claim cannot be disallowed for any reason other than those listed. *In re Kirkland* 379 B.R. 341. The court noted, however, that even under the "exclusive approach" a claim may be disallowed for

failure to attach supporting documents if the failure to attach the documents renders the claim unenforceable under state law. Id. At 348-349. Section 521(b)(1) provides that a claim can be disallowed if it is “unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured.” Under New York law, a debt buyer or assignee must prove through “preponderance of the evidence” that it owns the account in question in order to recover upon it. *Palisades Collection LLC v. Haque* N.Y.L.J. 4/13/06, p. 20, col. 3 (Civ. Ct. Queens Co.). Failure to show sufficient ownership of the debt under state law must render the proof of claim void ab initio.

27. For an illustration of the problem, see *Citibank (South Dakota), N.A. v. Martin*, 11 Misc.3d 219, 807, N.Y.S.2d 284, which sets forth the applicable proof requirements:

As a part of a credit card issuers presentation of a prima facie case, the motion papers must include an affidavit sufficient to tender to the court the original agreement, as well as that any revision thereto, and the affidavit must aver that the documents were mailed to the card holder. n4 The same affidavit typically advances copies of credit card statements which serve to evidence a buyer’s subsequent use of the credit card and acceptance of the original or revised terms of credit . . . **It is the assignee’s burden to prove the assignment . . .** an assignee must tender proof of assignment of a particular account . . . (emphasis added).

28. In the case of *Palisades Collection LLC v. Haque* N.Y.L.J. 4/13/06, p. 20, col. 3 (Civ. Ct. Queens Co.), the court dismissed a case because the plaintiff could not prove title to the debt, could not authenticate the contract, and could not show that the debtor had failed to pay. That plaintiff did not prove by a preponderance of the evidence that defendant’s account was in fact assigned to the plaintiff. *Copelco Capital, Inc. v. Packaging Plus Services, Inc.* 243 A.D.2d 534 [2nd Dep’t 1997]; *Citibank (SD) Na v. Martin* 2005 Slip Op. 25537.

29. Similarly, in the case of *Palisades Collection, LLC V. Gonzalez* 10 Misc. 3d

1058A, 809 N.Y.S.2d 482, that Court held that the plaintiff's motion for summary judgment must be denied where it had submitted affidavits based upon "books and records," but not executed by someone familiar with first hand knowledge of the entity engaged in the transactions. The court also held that evidence of assignment was insufficient without the actual assignment document. Other courts from other jurisdictions have come to the same or similar conclusion. *Unifund CCR Partners v. Harrell* 2005 Conn. Super. LEXIS 2037(8/3/05); *First Select Corp v. Grimes* 2003 Tex . App. LEXIS 604 (1/23/03).

30. In this case, the claim filers cannot establish ownership of the debt as a transferee. "Even though Fed. R. Bankr. Pr. 3001(e)(1) allows a transferee to file a claim, it creates no presumption of ownership" See *Merillo* at pg. 8. Therefore there is no presumption of a prima facie validity of the debt.

31. While the debtor relies upon the *Merillo* case, supra, there is an earlier and lower court case which appears to have a contrary approach, namely, the case of *In re Marilyn C. Kincaid*, 388 B.R. 610 (EDPA, 6/2/08). The debtor in this case and the court in the *Merillo* case, supra, argue that despite what the creditor attaches to the proof of claim, under Section 502(b)(1), the claim should be disallowed if it is "unenforceable against the debtor, under any agreement or applicable law for a reason other than because such a claim is contingent or unmatured." *Merillo* at page 6. In other words, only the true owner of the debt allowed to file a claim ab initio. Furthermore in the *Kincaid* case, supra, the debtor made no additional requests for additional documentation or for proof of the assignment from any of the claim filers. In this case, the debtors sent letters to all of the disputed claim holders on Oct. 29, 2008, requesting verification of the debt and proof of ownership. Some creditors failed to respond at all. Others

failed to respond in a satisfactory manner.

32. Therefore, if a debt buyer cannot prove that it has title to the debt, cannot authenticate the contract between the original creditor and the debtor, and cannot show that the debtor failed to make payments on the underlying debt, the debt buyer cannot make a *prima facie* showing that it is entitled to payment on the debt.

33. In the case at hand, a request for verification and proof that the claim filers actually purchased the debt was made. No response has been received. The debtor believes that the claim filers cannot produce any admissible evidence showing the purchase and assignment of the specific debt contained in the proofs of claim files with this Court, and cannot produce admissible evidence showing an account stated and therefore, the claims should be disallowed and expunged.

34. No prior application has made for the relief requested herein.

### **CONCLUSION**

**WHEREFORE**, it is respectfully requested that the Court grant the relief requested herein, to wit, disallowing, expunging claims #4, 9, 7, 8, 10-21, together with such other and further relief as is just and equitable.

Dated: New York, New York  
December 10, 2008

---

MICHAEL D. CARLIN (2914)

|  |   |                              |
|--|---|------------------------------|
| UNITED STATES BANKRUPTCY COURT - SOUTHERN DISTRICT OF NEW YORK<br>NEW YORK DIVISION  |   | PROOF OF CLAIM<br>Chapter 13 |
| Name of Debtor MICHAEL CARLIN<br>AKA: MICHAEL D CARLIN   | Case Number 08-11689-MG   |                              |
| NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.  |   |                              |
| Name of Creditor (the person or other entity to whom the debtor owes money or property):<br>American Express Travel Related Services Co., Inc.   | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.<br><br>Court Claim Number: _____<br><br>Filed on: _____  |                              |
| Name and address where notices should be sent<br>American Express Travel Related Services Co., Inc.<br>c/o BECKET & LEE LLP<br>Attorneys/Agent for Creditor<br>P.O. BOX 3001<br>Malvern, PA 19355-0701<br>Telephone number: (610) 644-7800   | <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.<br><br><input type="checkbox"/> Check this box if you are the debtor or trustee in this case.   |                              |
| Name and address where payments should be sent (if different from above)<br><br>Telephone number:  |   |                              |
| 1. Amount of Claim as of Date Case Filed: \$ 1,507.09<br><br>If all or part of this claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4<br><br>If all or part of your claim is entitled to priority, complete item 5.<br><br><input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principle amount of claim.<br>Attach itemized statement of interest or charges   | 5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.<br>Specify the priority of the claim<br><br><input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).<br><input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4).<br><input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).<br><input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7).<br><input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).<br><input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(__).<br><br>Amount entitled to priority:<br>\$ _____ |                              |
| 2. Basis for Claim: CREDIT CARD DEBT<br>(See instruction #2 on reverse side.)  |   |                              |
| 3. Last four digits of any number by which creditor identifies debtor: *****5009<br><br>3a. Debtor may have scheduled account as:<br>(See instruction #3a on reverse side.)  |   |                              |
| 4. Secured Claim (See instruction #4 on reverse side.)<br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.<br><br>Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br>Describe:<br>Value of Property: \$ _____ Annual Interest Rate _____ %<br><br>Amount of arrearage and other charges as of time case filed included in secured claim,<br>if any: \$ _____ Basis for perfection: _____ |   |                              |
| Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____   |   |                              |
| 6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.  |   |                              |
| 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary.<br>(See definition of "redacted" on reverse side.)  |   |                              |
| DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.  |   |                              |
| If the documents are not available, please explain:  |   |                              |
| Date: 05/23/08   | FOR COURT USE ONLY  |                              |
| <p>/s/Thomas A. Lee III<br/>Becket &amp; Lee LLP, Attorneys/Agent for Creditor</p> <p>Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.</p>  |   |                              |

## DUPLICATE COPY

**Sold Card  
Statement of Account**
Prepared For  
**MICHAEL CARLIN**Account Number  
**5009**Closing Date  
**12/08/06**

**Earn points on all of your purchases, everywhere you use the Card.**  
 Visit [www.americanexpress.com/rewards](http://www.americanexpress.com/rewards)

Page 1 of 3

|             | Previous Balance \$ | Payments/Credits \$ | New Charges \$<br>(inc. Finance Charge if any) | New Balance \$   | Minimum Amount Due \$ |
|-------------|---------------------|---------------------|--|------------------|-----------------------|
| Due in Full | 0.00                | 0.00                | 0.00   | 0.00             | 0.00                  |
| Flexible    | +1,925.54           | -53.04              | +29.84   | +1,902.34        | +39.00                |
| Total       | <b>1,925.54</b>     | <b>-53.04</b>       | <b>+29.84</b>                                  | <b>=1,902.34</b> | <b>39.00</b>          |

**Please Pay Upon Receipt**Please refer to page 3  
on How to Avoid  
Additional Finance  
Charges.Please refer to page 2  
for important information  
regarding your account

Your communication is acknowledged. Do not pay disputed amount until resolved.

For assistance or questions about your account, contact us at [www.americanexpress.com](http://www.americanexpress.com) or call Customer Service at 1-800-327-2177.**Activity** \* Indicates posting date

|                                   | Amount \$  |
|-----------------------------------|--|
| <b>Total of Card Transactions</b> | <b>New Charges<br/>Payments/Credits</b> <b>0.00<br/>0.00</b> |

↓ Please fold on the perforation below, detach and return with your payment ↓

**Payment Coupon**Account Number  
**5009****Please Pay Upon Receipt****Continued on Page 3**Please enter account  
number on all checks and  
correspondence.**Total New Balance  
\$ 1,902.34**Please refer to Page 3  
on How to Avoid Additional  
Finance Charges.**Minimum Amount Due  
\$39.00**Note any address and/or  
telephone number change  
on reverse side.\$ \_\_\_\_\_  
Amount enclosedUnless you check here,  
this change will apply to all  
of your Card Accounts  
except any Corporate  
Card Accounts you may  
have.

20329 006807FA 00750

**MICHAEL CARLIN  
SUITE 1706  
40 EXCHANGE PL #1706  
NEW YORK NY 10005-2722**

Individually handwritten signature

Mail Payment to:

 AMERICAN EXPRESS  
 P.O. BOX 2855  
 NEW YORK NY 10116-2855
**5009**

# DUPLICATE COPY



Account Number

5009      Closing Date  
12/08/06

Page 3 of 3

## Flexible Payment Option Statement of Account

Payment Received. Payment Due By 01/02/07.

Closing Date  
12/08/06

|                  | Account Summary \$ | Minimum Payment \$ | Payment Due Date |
|------------------|--------------------|--------------------|------------------|
| Previous Balance | 1,925.54           | 39.00              | 01/02/07         |
| Payments/Credits | -53.04             |                    |                  |
| FINANCE CHARGE   | 29.84              |                    |                  |
| New Charges      | 0.00               |                    |                  |
| New Balance      | 1,902.34           |                    |                  |

| Finance Charge Schedule | Balance(s) to Which Rate Applies | Average Daily Balance | Annual Percentage Rate | Daily Periodic Rate |
|-------------------------|----------------------------------|-----------------------|------------------------|---------------------|
|                         | ALL                              | \$1,926.33            | 18.24 %                | .0500%              |

Certain of the periodic rates and APRs above may be variable. Those rates may vary based upon the prime rate identified in the Wall Street Journal, as described in your Cardmember Agreement as currently in effect.

Please refer to page 3 for important information regarding your Sign & Travel and/or Extended Payment Option.

| S&T and/or ExPO Activity for MICHAEL CARLIN  |  | Amount \$     |
|--|--|---------------|
| Card XXXX-XXXXXX-XXXX                        |  |               |
| 12/01/06 PAYMENT RECEIVED - THANK YOU        |  | 53.04         |
| <b>Total of S&amp;T and/or ExPO Activity</b> |  | <b>0.00</b>   |
|  |  | <b>-53.04</b> |

## Important Sign & Travel and/or Extended Payment Option Information

**Finance Charge:** To calculate the Finance Charge, we multiply the Daily Periodic Rate, by the Average Daily Balance for the billing period. Then we multiply the product by the number of days in the billing period. To get the Average Daily Balance we take the beginning balance of the Extended Payment Option ("Account") each day, add any new Account Charges and accrued and unpaid Finance Charges and subtract any payments or credits. Then we add up the daily balances for the billing period and divide by the number of days in the billing period. This gives us the Average Daily Balance. This method of computation of the Average Daily Balance results in compound interest. If in any 12 month period ending with the Closing Date of the current billing period you were in default on your Account or any other American Express Account, the APR applicable to your entire Account balance will be as disclosed to you in your Cardmember Agreement and its supplement(s). **Payments:** Please see the payment information and instructions on Page 2. Remember, your payment each month should be for at least the Minimum Amount Due or the Total Amount Due, whichever appears on the Card Account Statement. Either amount includes the Account Minimum Payment shown on the Account Statement and the balance due on your Card Account. If you want to pay more than the Minimum Payment (up to the entire Account New Balance), make your payment for the larger amount and the excess will be applied to your Account. **How to avoid Additional Finance Charges:** To avoid additional Finance Charges the Account New Balance must be paid in full by the Closing Date of the next billing period. American Express Centurion Bank will not impose Finance Charges for Account Charges made in any billing period for which payment in full has been received on or before the Closing Date of the next billing period. **Creditor:** The Extended Payment Option and/or Sign & Travel is issued by American Express Centurion Bank.

20530 USECTFA 067150

### Billing Inquiries

Customer Service  
1-800-327-2177  
(24 hours, toll free)

### Address

American Express  
Customer Service  
P.O. Box 297807  
Ft Lauderdale, FL  
33329-7807

# MICHAEL D. CARLIN

Attorney and Counsellor at Law

21st. Floor

26 Broadway

New York, New York 10004

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E-MAIL: mcarlin721@aol.com

TEL.: (212) 269-3100

FAX: (212) 269-7032

October 29, 2008

American Express  
c/o Becket and Lee LLP  
POB 3001  
Malvern Pa 19355-0701

**Re: Michael D. Carlin**  
Chapter 13 Case No. 08-11689  
Southern District of New York  
Acct. #\*\*\*\*\*3001

To Whom It May Concern:

Please be advised that the undersigned has filed a Chapter 13 petition in the above-referenced matter. A proof of claim was filed on behalf of American Express by your office in the amount of \$17,964.07, a copy of which is attached for your consideration. Please be advised that the debtor disputes the liability and the amount claimed in this proof of claim.

In reliance upon relevant Bankruptcy Court authorities, the debtor is entitled to demand and now hereby demands the following supporting documentation: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc. (In re Heath)*, 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471 at 481.

Further, the debtor disputes the amount inasmuch as the creditor did not abide by its agreement not to charge interest and penalties so long as the debtor participated in a debt management program, which the debtor did. Also, the amount of interest and penalties is exorbitant and usurious, as to which excessive and exorbitant charges the debtor never agreed. Please provide documentation

If you are unable to provide proof as to any of the items demanded above, I expect that the proof of claim will be withdrawn immediately. Otherwise, I shall consider the proof of claim to be fraudulent and will move the court two weeks after today's date to disallow and expunge the proof of claim.

Very truly yours,



MICHAEL D. CARLIN

# MICHAEL D. CARLIN

Attorney and Counsellor at Law

21st. Floor

26 Broadway

New York, New York 10004

---

E-MAIL: mcarlin721@aol.com

TEL.: (212) 269-3100

FAX: (212) 269-7032

October 29, 2008

American Express  
c/o Becket and Lee LLP  
POB 3001  
Malvern Pa 19355-0701

Re: Michael D. Carlin  
Chapter 13 Case No. 08-11689  
Southern District of New York  
Acct. #\*\*\*\*\*5009

To Whom It May Concern:

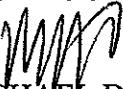
Please be advised that the undersigned has filed a Chapter 13 petition in the above-referenced matter. A proof of claim was filed on behalf of Amerincan Express by your office in the amount of \$1,507.09, a copy of which is attached for your consideration. Please be advised that the debtor disputes the liability and the amount claimed in this proof of claim.

In reliance upon relevant Bankruptcty Court authorities, the debor is entitled to demand and now hereby demands the following supporting doucmentation: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc. (In re Heath)*, 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471 at 481.

Further, the debtor disputes the amount inasmuch as the creditor did not abide by its agreement not to charge interest and penalties so long as the debtor participated in a debt managment program, which the debtor did. Also, the amount of interest and penalties is exorbitant and usurious, as to which excessive and exorbitant charges the debtor never agreed.

If you are unable to provide proof as to any of the items demanded above, I expect that the proof of claim will be withdrawn immediately. Otherwise, I shall consider the proof of claim to be fraudulent and will move the court two weeks after today's date to disallow and expunge the proof of claim.

Very truly yours,



MICHAEL D. CARLIN

|   |  |                              |
|---|--|------------------------------|
| UNITED STATES BANKRUPTCY COURT - SOUTHERN DISTRICT OF NEW YORK<br>NEW YORK DIVISION   |  | PROOF OF CLAIM<br>Chapter 13 |
| Name of Debtor MICHAEL CARLIN<br>AKA: MICHAEL D CARLIN  | Case Number 08-11689-MG  |                              |
| NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.   |  |                              |
| Name of Creditor (The person or other entity to whom the debtor owes money or property):<br>American Express Centurion Bank   | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.<br>Court Claim Number: _____  |                              |
| Name and address where notices should be sent<br>American Express Centurion Bank<br>c/o BECKET & LEE LLP<br>Attorneys/Agent for Creditor<br>P.O. BOX 3001<br>Malvern, PA 19355-0701<br>Telephone number: (610) 644-7800   | Filed on: _____<br><input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.<br><input type="checkbox"/> Check this box if you are the debtor or trustee in this case. |                              |
| Name and address where payments should be sent(if different from above)   | 5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.<br>Specify the priority of the claim  |                              |
| Telephone number:   | <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principle amount of claim.<br>Attach itemized statement of interest or charges  |                              |
| 1. Amount of Claim as of Date Case Filed: \$ 17,964.07  | <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).   |                              |
| If all or part of this claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4  | <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507 (a)(4).   |                              |
| If all or part of your claim is entitled to priority, complete item 5.  | <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507 (a)(5).   |                              |
| <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principle amount of claim.<br>Attach itemized statement of interest or charges   | <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507 (a)(7).   |                              |
| 2. Basis for Claim: CREDIT CARD DEBT<br>(See instruction #2 on reverse side.)   | <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507 (a)(8).   |                              |
| 3. Last four digits of any number by which creditor identifies debtor: *****3001  | <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507 (a)(__).  |                              |
| 3a. Debtor may have scheduled account as:<br>(See instruction #3a on reverse side.)   | Amount entitled to priority:<br>\$ _____   |                              |
| 4. Secured Claim (See instruction #4 on reverse side.)<br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.  | *Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.  |                              |
| Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br>Describe:<br>Value of Property: \$ _____ Annual Interest Rate _____ %  |  |                              |
| Amount of arrearage and other charges as of time case filed included in secured claim,<br>if any: \$ _____ Basis for perfection: _____  |  |                              |
| Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____  |  |                              |
| 6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.   |  |                              |
| 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary.<br>(See definition of "redacted" on reverse side.) |  |                              |
| DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.   |  |                              |
| If the documents are not available, please explain:   |  |                              |
| Date: 07/01/08  | FOR COURT USE ONLY   |                              |

/s/Thomas A. Lee III  
Becket & Lee LLP, Attorneys/Agent for Creditor

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.



# MICHAEL D. CARLIN

Attorney and Counsellor at Law

21st. Floor

26 Broadway

New York, New York 10004

---

E-MAIL: mcarlin721@aol.com

TEL.: (212) 269-3100

FAX: (212) 269-7032

October 29, 2008

RESURGENT CAPITAL SERVICES  
POB 10587  
GREENVILLE, SC 29603-0587

**Re: Michael D. Carlin**  
Chapter 13 Case No. 08-11689  
Southern District of New York  
Acct. #\*\*\*\*\*6239

To Whom It May Concern:

Please be advised that the undersigned has filed a Chapter 13 petition in the above-referenced matter. A proof of claim was filed by your office on behalf of LVNV Funding LLC in the amount of \$3,183.23, a copy of which is attached for your consideration.

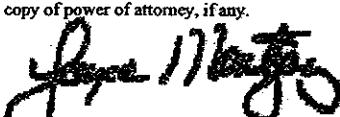
Please be advised that the debtor disputes whether LVNV Funding LLC. either purchased or was assigned this or any other one of debtor's accounts. Pursuant to relevant Bankruptcy Court authority (*In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471), please send to the debtor at the address listed above verification that LVNV Funding LLC. purchased this account from any other entity. In accordance with the Uniform Commercial Code, please provide copies of the Assignment(s) and other documents showing that LVNV Funding LLC is the Assignee of the debt and that you are legally authorized to collect this debt from the debtor. Please also provide the full corporate names and addresses of the original creditor(s). If LVNV Funding LLC did not receive this account from the original creditor, provide documentation of assignment(s) from the original creditor to the creditor from whom LVNV Funding LLC was assigned the account.

Please be advised that the debtor disputes the liability and the amount claimed in this proof of claim. In reliance upon relevant Bankruptcy Court authorities, the debtor is entitled to demand and now hereby demands the following supporting documentation: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc.* (*In re Heath*), 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471 at 481.

If you are unable to provide proof as to any of the items demanded above, I expect that the proof of claim will be withdrawn immediately. Otherwise, I shall consider the proof of claim to be fraudulent and will move the court two weeks after today's date to disallow and expunge the proof of claim.

Very truly yours,

MICHAEL D. CARLIN

| UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK   |   | PROOF OF CLAIM   |
|--|---|--|
| Name of Debtor:<br><b>Carlin;Michael</b>   | Case Number:<br><b>0811689</b>  |  |
| NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.  |   |  |
| Name of Creditor (the person or other entity to whom the debtor owes money or property):<br><b>LVNV Funding LLC its successors and assigns as assignee of Citibank</b>   | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.  |  |
| Name and address where notices should be sent:<br><br><b>Resurgent Capital Services<br/>PO Box 10587<br/>Greenville, SC 29603-0587<br/>Telephone Number: (864) 235-7336</b>  | Court Claim Number:<br>(If known)   |  |
| Name and address where payment should be sent (if different from above):<br><br>Telephone number:  | Filed on:   |  |
| <b>1. Amount of Claim as of Date Case Filed:</b> <b>\$3,183.23</b><br><br>If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.<br><br>If all or part of your claim is entitled to priority, complete item 5.<br><br>[X] Check this box if claim includes interest or other charges in addition to the principal amount of claim.<br>Attach itemized statement of interest or charges. | <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim.<br>Attach copy of statement giving particulars.<br><br><input type="checkbox"/> Check this box if you are the debtor or trustee in this case.              |  |
| <b>2. Basis for Claim:</b> <b>UNSECURED CHARGE OFF</b>   | <b>5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount</b>   |  |
| <b>3. Last four digits of any number by which creditor identifies debtor:</b> <b>6239</b>  | Specify the priority of the claim.  |  |
| <b>3a. Debtor may have scheduled account as:</b>   | <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).   |  |
| <b>4. Secured Claim</b><br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.  | <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507(a)(4).  |  |
| Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br>Describe:   | <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507(a)(5).  |  |
| Value of Property: \$ _____  | Annual Interest Rate %  | <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507(a)(7). |
| Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____  | Basis for perfection  | <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507(a)(8).   |
| Amount of Secured Claim: <b>Amount Unsecured:</b>  | <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507(a).<br><br><b>Amount entitled to priority:</b><br>\$ _____  |  |
| <b>6. Credits:</b> The amount of all payments on this claim has been credited for the purpose of making this proof of claim.   | <i>*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</i>  |  |
| <b>7. Documents:</b> Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary   |   |  |
| DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.  |   |  |
| If the documents are not available, please explain:  |   |  |
| Date: <b>06/20/2008</b>  | Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. | FOR COURT USE ONLY   |
| <br><b>Joyce Montjoy, Bankruptcy Recovery Manager of Resurgent Capital Services</b>   |   |  |

*Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.*



P.O. Box 10587  
Greenville, SC 29603-0587

Phone: (864) 235-7336

Fax: (864) 248-8790

e-Mail: askbk@resurgent.com

**Proof of Claim – Account Detail**

| <b>Borrower Information</b> |                         |
|-----------------------------|-------------------------|
| Borrower Name:              | Carlin;Michael          |
| SSN (redacted):             | 2914                    |
| Address:                    | 40 Exchange Pl Ste 1706 |
| City:                       | New York                |
| State, Zip:                 | NY 100052722            |

| <b>Bankruptcy Case Information</b> |               |
|------------------------------------|---------------|
| SOUTHERN DISTRICT of NEW YORK      |               |
| Trustee Name:                      | Jeffrey Sapir |
| Bankruptcy Case Number:            | 0811689       |
| Chapter:                           | 13            |

| <b>Account Information</b>                                 |            |
|--|------------|
| Account Number (redacted):                                 | 6239       |
| Amount due as of the date the bankruptcy case was filed**: | \$3,183.23 |
| Charged off by original creditor on:                       | 5/19/2008  |
| Last transaction date:                                     | 05/01/2008 |

| <b>Creditor Information</b>                   |   |
|---|---|
| Current Creditor*:                            | LVNV Funding LLC its successors and assigns as assignee of Citibank |
| Purchased by Creditor from:                   | Citibank  |
| Alternative names (if any) for this creditor: |   |

\*Resurgent Capital Services services this account on behalf of the current creditor. Please send any bankruptcy or related notices on this account to our attention at the following address:

**Resurgent Capital Services**

**PO Box 10587**  
**Greenville, SC 29603-0587**  
**Telephone No. (864) 235-7336**

\*\*Information on this account was obtained from the data files received from the assignor and other information such as Bankruptcy Court records.

The assignor has verified that the balance recorded above is the balance of the account as of the filing date of the bankruptcy and does not include post petition interest, late fees, return check fees, charges representing credit protection plan fees or insurance fees or other charges.



Citibank (South Dakota), N.A.  
Office of the General Counsel

701 East 60th Street, North  
P.O. Box 6034  
Sioux Falls, SD 57117-6034

Tel: 605-331-1567  
Fax: 605-330-6745

Bill of Sale and Assignment of Accounts

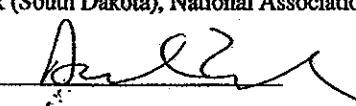
Citibank (South Dakota), N.A. (successor to Citibank USA, N.A.) ("Seller"), for value received, to the extent permitted by applicable law, and subject to the terms of that certain Purchase and Sale Agreement entered into as of July 11, 2003, (the "Agreement"), by and between Sears, Roebuck and Co., Sears National Bank, SRFG, Inc., SMTB, Inc., SVFT, Inc., SLRR, Inc. and Sears Financial Holding Corporation (collectively, "Originator") and Sherman Originator LLC ("Buyer"), then subsequently assumed by Seller pursuant to that letter dated October 30, 2003, transfers, sells, assigns, conveys, grants and delivers to Buyer, who simultaneously transfers, sells, assigns, conveys, grants and delivers to ~~NVLY~~ Funding LLC ("Subsequent Buyer") all rights, title and interest in and to the Chapter 13 Accounts which are described on the Disk furnished by Seller to Buyer in connection herewith; (ii) all payments on and proceeds of such accounts (each, an "Account") after the close of business on June 13, 2008, and (iii) all claims arising out of or relating to each Account.

The Accounts include accounts which were previously owned by Sears, Roebuck and Co., Sears National Bank, SRFG, Inc., SMTB, Inc., SVFT, Inc. and SLRR, Inc.

Seller hereby stipulates that Subsequent Buyer may be substituted for Seller as the valid owner of the Accounts and hereby irrevocably waives any and all notice, and hearing requirements imposed by or right to object under Bankruptcy Rule 3001(e)(2) or otherwise.

Each of the obligations of Seller required to be performed by Seller on or prior to the date hereof pursuant to the terms of the Agreement has been duly performed; and all representations and warranties of Seller made under such Agreement are true and correct as of the date hereof.

Citibank (South Dakota), National Association

By: 

DAVID L. ZIMBECK  
President & General Counsel  
Citibank (South Dakota), N.A.  
Sioux Falls, SD 57117  
605-331-1567

# MICHAEL D. CARLIN

Attorney and Counsellor at Law  
21st. Floor  
26 Broadway  
New York, New York 10004

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E-MAIL: mcarlin721@aol.com  
TEL.: (212) 269-3100  
FAX: (212) 269-7032  
October 29, 2008

RESURGENT CAPITAL SERVICES  
POB 10587  
GREENVILLE, SC 29603-0587

Re: Michael D. Carlin  
Chapter 13 Case No. 08-11689  
Southern District of New York  
Acct. #\*\*\*\*\*0773

To Whom It May Concern:

Please be advised that the undersigned has filed a Chapter 13 petition in the above-referenced matter. A proof of claim was filed on behalf of Amerinccan Express by your office in the amount of \$3,446.47, a copy of which is attached for your consideration. Please be advised that the debtor disputes the liability and the amount claimed in this proof of claim.

Please be advised that the debtor disputes whether LVNV Funding LLC. either purchased or was assigned this or any other one of debtor's accounts. Pursuant to relevant Bankruptcy Court authority (*In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471), please send to the debtor at the address listed above verification that LVNV Funding LLC. purchased this account from any other entity. In accordance with the Uniform Commercial Code, please provide copies of the Assignment(s) and other documents showing that LVNV Funding LLC is the Assignee of the debt and that you are legally authorized to collect this debt from the debtor. Please also provide the full corporate names and addresses of the original creditor(s). If LVNV Funding LLC did not receive this account from the original creditor, provide documentation of assignment(s) from the original creditor to the creditor from whom LVNV Funding LLC was assigned the account.

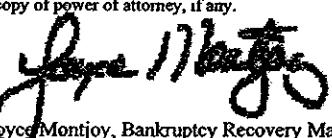
In reliance upon relevant Bankruptcty Court authorities, the debor is entitled to demand and now hereby demands the following supporting doucmentation: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc. (In re Heath)*, 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471 at 481.

If you are unable to provide proof as to any of the items demanded above, I expect that the proof of claim will be withdrawn immediately. Otherwise, I shall consider the proof of claim to be fraudulent and will move the court two weeks after today's date to disallow and expunge the proof of claim.

Very truly yours,



MICHAEL D. CARLIN

| UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK   |   | PROOF OF CLAIM |                    |
|--|---|----------------|--------------------|
| Name of Debtor:<br><b>Carlin;Michael</b>   | Case Number:<br><b>0811689</b>  |                |                    |
| NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.  |   |                |                    |
| Name of Creditor (the person or other entity to whom the debtor owes money or property):<br><br>LVNV Funding LLC its successors and assigns as assignee of Citibank  | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.  |                |                    |
| Name and address where notices should be sent:<br><br>Resurgent Capital Services<br>PO Box 10587<br>Greenville, SC 29603-0587<br>Telephone Number: (864) 235-7336  | Court Claim Number:<br>(If known)<br><br>Filed on:  |                |                    |
| Name and address where payment should be sent (if different from above):<br><br>Telephone number:  | <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.<br><br><input type="checkbox"/> Check this box if you are the debtor or trustee in this case.                 |                |                    |
| <b>1. Amount of Claim as of Date Case Filed:</b> <u>\$3,446.47</u>   | <b>5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a).</b> If any portion of your claim falls in one of the following categories, check the box and state the amount   |                |                    |
| If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.  | Specify the priority of the claim.  |                |                    |
| If all or part of your claim is entitled to priority, complete item 5.   | <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).   |                |                    |
| <input checked="" type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.   | <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507(a)(4).  |                |                    |
| <b>2. Basis for Claim:</b> UNSECURED CHARGE OFF  | <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507(a)(5).  |                |                    |
| <b>3. Last four digits of any number by which creditor identifies debtor:</b> <u>0773</u>  | <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507(a)(7).  |                |                    |
| <b>3a. Debtor may have scheduled account as:</b>   | <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507(a)(8).  |                |                    |
| <b>4. Secured Claim</b><br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.  | <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507(a).<br><br><b>Amount entitled to priority:</b><br><br>\$  |                |                    |
| Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br>Describe:   |   |                |                    |
| Value of Property: \$  | Annual Interest Rate %  |                |                    |
| Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$  | Basis for perfection  |                |                    |
| Amount of Secured Claim:      Amount Unsecured:  |   |                |                    |
| <b>6. Credits:</b> The amount of all payments on this claim has been credited for the purpose of making this proof of claim.   |   |                |                    |
| <b>7. Documents:</b> Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary |   |                |                    |
| DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.  |   |                |                    |
| If the documents are not available, please explain:  |   |                |                    |
| Date: 06/30/2008   | Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. |                | FOR COURT USE ONLY |
| <br><b>Joyce Montjoy, Bankruptcy Recovery Manager of Resurgent Capital Services</b>   |   |                |                    |

*Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.*

*\*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.*



P.O. Box 10587  
Greenville, SC 29603-0587

Phone: (864) 235-7336

Fax: (864) 248-8790

e-Mail: askbk@resurgent.com

**Proof of Claim – Account Detail**

| <b>Borrower Information</b> |                              |
|-----------------------------|------------------------------|
| Borrower Name:              | Carlin;Michael               |
| SSN (redacted):             | 2914                         |
| Address:                    | 40 Exchange Place Suite 1706 |
| City:                       | Ny                           |
| State, Zip:                 | NY 100052722                 |

| <b>Bankruptcy Case Information</b> |               |
|------------------------------------|---------------|
| SOUTHERN DISTRICT of NEW YORK      |               |
| Trustee Name:                      | Jeffrey Sapir |
| Bankruptcy Case Number:            | 0811689       |
| Chapter:                           | 13            |

| <b>Account Information</b>                                 |            |
|--|------------|
| Account Number (redacted):                                 | 0773       |
| Amount due as of the date the bankruptcy case was filed**: | \$3,446.47 |
| Charged off by original creditor on:                       |            |
| Last transaction date:                                     | 05/01/2008 |

| <b>Creditor Information</b>                   |   |
|---|---|
| Current Creditor*:                            | LVNV Funding LLC its successors and assigns as assignee of Citibank |
| Purchased by Creditor from:                   | Citibank  |
| Alternative names (if any) for this creditor: |   |

\*Resurgent Capital Services services this account on behalf of the current creditor. Please send any bankruptcy or related notices on this account to our attention at the following address:

**Resurgent Capital Services**

PO Box 10587  
Greenville, SC 29603-0587  
Telephone No. (864) 235-7336

\*\*Information on this account was obtained from the data files received from the assignor and other information such as Bankruptcy Court records.

The assignor has verified that the balance recorded above is the balance of the account as of the filing date of the bankruptcy and does not include post petition interest, late fees, return check fees, charges representing credit protection plan fees or insurance fees or other charges.



Citibank (South Dakota), N.J.  
Office of the General Counsel

701 East 60th Street, North  
P.O. Box 6034  
Sioux Falls, SD 57117-6034

Tel: 605-331-1567  
Fax: 605-330-6745

**ASSIGNMENT AND ASSUMPTION AGREEMENT**

THIS BILL OF SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT is dated as of June 13, 2008, between Citibank (South Dakota), National Association, a national banking association organized under the laws of the United States, located at 701 East 60<sup>th</sup> Street North, Sioux Falls, SD 57117 (the "Bank") and Sherman Originator LLC, located c/o Sherman Capital Markets LLC, 200 Meeting Street, Charleston, SC 29401 ("Buyer").

For value received and subject to the terms and conditions of the Purchase and Sale Agreement dated August 13, 2001, between Buyer and the Bank (the "Agreement"), the Bank does hereby transfer, sell, assign, convey, grant, bargain, set over and deliver to Buyer, who simultaneously transfers, sells, assigns, conveys, grants, bargains, sets over and delivers to LVNV Funding LLC ("Subsequent Buyer"), and to Subsequent Buyer's, successors and/or assigns, the Accounts described in Section 1.2 of the Agreement.

Seller hereby stipulates that Subsequent Buyer may be substituted for Seller as the valid owner of the Accounts and hereby irrevocably waives any and all notice, hearing requirements or right to object under Bankruptcy Rule 3001 (e) (2).

This Bill of Sale, Assignment and Assumption Agreement is executed without recourse and without representations or warranties including, without limitation, warranties as to collectibility.

Citibank (South Dakota), National Association

By: David L. Zimbeck

Name: DAVID L. ZIMBECK  
\* Vice President & General Counsel  
Title: \* Citibank (South Dakota), N.A.  
Sioux Falls, SD 1251  
605-331-1830



# MICHAEL D. CARLIN

Attorney and Counsellor at Law

21st. Floor

26 Broadway

New York, New York 10004

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E-MAIL: mcarlin721@aol.com

TEL.: (212) 269-3100

FAX: (212) 269-7032

October 29, 2008

Ecast Settlement Corp.  
POB 35480  
Newark, NJ 07192-5480

Re: Michael D. Carlin  
Chapter 13 Case No. 08-11689  
Southern District of New York  
Acct. #\*\*\*\*\*2575

To Whom It May Concern:

Please be advised that the undersigned has filed a Chapter 13 petition in the above-referenced matter. A proof of claim was filed on behalf of Ecast Settlement Corp. by your office in the amount of \$4,089.56, a copy of which is attached for your consideration.

Please be advised that the debtor disputes whether Ecast Settlement Corp. either purchased or was assigned this or any other one of debtor's accounts. Pursuant to relevant Bankruptcy Court authority (*In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471), please send to the debtor at the address listed above verification that Ecast Settlement Corp. purchased this account from Capital One. In accordance with the Uniform Commercial Code, please provide copies of the Assignment(s) and other documents showing that Ecast Settlement Corp. is the Assignee of the debt and that you are legally authorized to collect this debt from the debtor. Please also provide the full corporate names and addresses of the original creditor(s). If Ecast Settlement Corp. did not receive this account from the original creditor, provide documentation of assignment(s) from the original creditor to the creditor from whom Ecast Settlement Corp. was assigned the account.

Please be advised that the debtor also disputes the liability and the amount claimed in this proof of claim. In reliance upon relevant Bankruptcy Court authorities, the debtor is entitled to demand and now hereby demands the following supporting documentation: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc. (In re Heath)*, 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471 at 481.

If you are unable to provide proof as to any of the items demanded above, I expect that the proof of claim will be withdrawn immediately. Otherwise, I shall consider the proof of claim to be fraudulent and will move the court two weeks after today's date to disallow and expunge the proof of claim.

Very truly yours,

MICHAEL D. CARLIN

| UNITED STATES BANKRUPTCY COURT - SOUTHERN DISTRICT OF NEW YORK<br>NEW YORK DIVISION  |                         | PROOF OF CLAIM<br>Chapter 13   |
|--|-------------------------|--|
| Name of Debtor MICHAEL D CARLIN  | Case Number 08-11689-MG |  |
| <p><b>NOTE:</b> This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.</p>  |                         |  |
| <b>Name of Creditor (The person or other entity to whom the debtor owes money or property):</b><br>eCAST Settlement Corporation, assignee of Capital One Bank  |                         | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.   |
| <b>Name and address where notices should be sent</b><br>eCAST Settlement Corporation<br>P.O. Box 35480<br>Newark, NJ 07193-5480  |                         | <b>Court Claim Number:</b> _____<br><br><b>Filed on:</b> _____   |
| <b>Telephone number:</b> (610) 644-7800<br><b>Name and address where payments should be sent (if different from above)</b>   |                         | <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.  |
| <b>Telephone number:</b>   |                         | <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.   |
| <b>1. Amount of Claim as of Date Case Filed:</b> \$ <u>4,089.56</u>  |                         | <b>5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a).</b> If any portion of your claim falls in one of the following categories, check the box and state the amount.<br>Specify the priority of the claim |
| If all or part of this claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.  |                         |  |
| If all or part of your claim is entitled to priority, complete item 5.   |                         |  |
| <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principle amount of claim. Attach itemized statement of interest or charges   |                         |  |
| <b>2. Basis for Claim:</b> CREDIT CARD DEBT<br>(See instruction #2 on reverse side.)   |                         |  |
| <b>3. Last four digits of any number by which creditor identifies debtor:</b> * * * * * * * * * * <u>2575</u><br>3a. Debtor may have scheduled account as: Capital One Bank<br>(See instruction #3a on reverse side.)  |                         |  |
| <b>4. Secured Claim</b> (See instruction #4 on reverse side.)<br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.  |                         |  |
| <b>Nature of property or right of setoff:</b> <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br><b>Describe:</b><br>Value of Property: \$ _____ Annual Interest Rate _____ %   |                         |  |
| Amount of arrearage and other charges as of time case filed included in secured claim,   |                         |  |
| If any: \$ _____ Basis for perfection: _____   |                         |  |
| Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____   |                         |  |
| <b>6. Credits:</b> The amount of all payments on this claim has been credited for the purpose of making this proof of claim.   |                         |  |
| <b>7. Documents:</b> Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary.<br>(See definition of "redacted" on reverse side.) |                         |  |
| <b>DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.</b>   |                         |  |
| If the documents are not available, please explain:<br><br>Date: 07/07/08  |                         |  |
|  |                         | <b>FOR COURT USE ONLY</b>  |

Date: 07/07/08

/s/Thomas A. Lee III  
Becket & Lee LLP, Attorneys/Agent for Creditor

FOR COURT USE ONLY

**Penalty for presenting fraudulent claim:** Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

BANKRUPT DEBTOR: CARLIN, MICHAEL D  
A/K/A:  
\*\*\*\*-\*\*-2914  
40 EXCHANGE PL STE 1706  
NEW YORK, NY 10005-2722

BANKRUPTCY NUMBER: 08-11689-MG  
FILING DATE: 05/05/2008  
CHAPTER: 13

eCAST Settlement Corporation, assignee of Capital One Bank  
P.O. Box 35480  
Newark, NJ 07193-5480

ACCOUNT SUMMARY

Account Debtor: CARLIN, MICHAEL D  
SSN1: \*\*\*\*-\*\*-2914

Account Number: \*\*\*\*\*2575  
Account Type: CREDIT CARD

Open Date: 12/22/2000  
Charge off Date: 05/10/2008

Balance at Filing Date: \$ 4,089.56

Pursuant to paragraph 7 Official Bankruptcy Form 10, Proof of Claim, in lieu of attaching voluminous account documents, a summary of the account, compiled from the information contained in the account databases of Capital One Bank and their agents, if any, is provided. (See Instructions to Official Form 10). This debt arises from the use of a credit/charge card account or other money loaned, the supporting documents for which were provided by Capital One Bank to the debtor pre-petition. For further information about this claim call 1-800-962-6030 and ask to speak to the Claims Servicing Supervisor. Some documents may no longer be available.

# MICHAEL D. CARLIN

Attorney and Counselor at Law  
21st. Floor  
26 Broadway  
New York, New York 10004

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E-MAIL: mcarlin721@aol.com

TEL.: (212) 269-3100

FAX: (212) 269-7032

October 29, 2008

Ecast Settlement Corp.  
Pob 35480  
Newark, NJ 07192-5480

Re: Michael D. Carlin  
Chapter 13 Case No. 08-11689  
Southern District of New York  
Acct. #\*\*\*\*\*3220

To Whom It May Concern:

Please be advised that the undersigned has filed a Chapter 13 petition in the above-referenced matter. A proof of claim was filed on behalf of Ecast Settlement Corp. by your office in the amount of \$3,729.83, a copy of which is attached for your consideration.

Please be advised that the debtor disputes whether Ecast Settlement Corp. either purchased or was assigned this or any other one of debtor's accounts. Pursuant to relevant Bankruptcy Court authority (*In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471), please send to the debtor at the address listed above verification that Ecast Settlement Corp. purchased this account from Bank of America. In accordance with the Uniform Commercial Code, please provide copies of the Assignment(s) and other documents showing that Ecast Settlement Corp. is the Assignee of the debt and that you are legally authorized to collect this debt from the debtor. Please also provide the full corporate names and addresses of the original creditor(s). If Ecast Settlement Corp. did not receive this account from the original creditor, provide documentation of assignment(s) from the original creditor to the creditor from whom Ecast Settlement Corp. was assigned the account.

Please be advised that the debtor also disputes the liability and the amount claimed in this proof of claim. In reliance upon relevant Bankruptcy Court authorities, the debtor is entitled to demand and now hereby demands the following supporting documentation: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc.* (*In re Heath*), 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471 at 481.

If you are unable to provide proof as to any of the items demanded above, I expect that the proof of claim will be withdrawn immediately. Otherwise, I shall consider the proof of claim to be fraudulent and will move the court two weeks after today's date to disallow and expunge the proof of claim.

Very truly yours,



MICHAEL D. CARLIN

|   |   |                              |  |
|---|---|------------------------------|--|
| UNITED STATES BANKRUPTCY COURT - SOUTHERN DISTRICT OF NEW YORK<br>NEW YORK DIVISION   |   | PROOF OF CLAIM<br>Chapter 13 |  |
| Name of Debtor MICHAEL D CARLIN   | Case Number 08-11689-MG   |                              |  |
| NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.   |   |                              |  |
| Name of Creditor (The person or other entity to whom the debtor owes money or property):<br><b>FIA Card Services aka Bank of America<br/>by eCAST Settlement Corporation, as its agent</b>  | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.  |                              |  |
| Name and address where notices should be sent<br><br>eCAST Settlement Corporation<br>P.O. Box 35480<br>Newark, NJ 07193-5480  | Court Claim Number: _____   |                              |  |
| Telephone number: (610) 644-7800 * see attachment   | Filed on: _____   |                              |  |
| Name and address where payments should be sent(if different from above)   | <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.   |                              |  |
| Telephone number:   | <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.  |                              |  |
| 1. Amount of Claim as of Date Case Filed: \$ <u>3,729.83</u>  | 5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.<br>Specify the priority of the claim                |                              |  |
| If all or part of this claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4  | <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principle amount of claim. Attach itemized statement of interest or charges  |                              |  |
| If all or part of your claim is entitled to priority, complete item 5.  | <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).   |                              |  |
| <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principle amount of claim. Attach itemized statement of interest or charges  | <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. §507 (a)(4). |                              |  |
| 2. Basis for Claim: CREDIT CARD DEBT<br>(See instruction #2 on reverse side.)   | <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. §507 (a)(5).   |                              |  |
| 3. Last four digits of any number by which creditor identifies debtor:*****3220<br>3a. Debtor may have scheduled account as: FIA Card Services aka Bank of America<br>(See instruction #3a on reverse side.)  | <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507 (a)(7).   |                              |  |
| 4. Secured Claim (See instruction #4 on reverse side.)<br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.  | <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. §507 (a)(8).   |                              |  |
| Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br>Describe:<br>Value of Property: \$ _____ Annual Interest Rate: _____ %   | <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §507 (a)(__).  |                              |  |
| Amount of arrearage and other charges as of time case filed included in secured claim,<br>if any: \$ _____ Basis for perfection: _____  | Amount entitled to priority:<br>\$ _____  |                              |  |
| Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____  | *Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.   |                              |  |
| 6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.   |   |                              |  |
| 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary.<br>(See definition of "redacted" on reverse side.) |   |                              |  |
| DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.   |   |                              |  |
| If the documents are not available, please explain:   |   |                              |  |
| Date: 08/06/08  | FOR COURT USE ONLY  |                              |  |
| /s/Thomas A. Lee III<br>Becket & Lee LLP, Attorneys/Agent for Creditor  |   |                              |  |

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

\*By written agreement between Creditor and eCAST Settlement Corporation, eCAST Settlement Corporation has been authorized to file this proof of claim as agent for Creditor pending the Creditor's charge-off of the account and the transfer of the title to the account to eCAST Settlement Corporation. Creditor has further authorized eCAST Settlement Corporation to receive notices and payments with respect to this claim on Creditor's behalf, to be allocated pursuant to the terms of such agreement. ♠

BANKRUPT DEBTOR: CARLIN, MICHAEL D

A/K/A:

\*\*\*-\*\*-2914

40 EXCHANGE PL STE 1706  
NEW YORK NY, 100052722

BANKRUPTCY NUMBER: 08-11689-MG

FILING DATE: 05/05/2008

CHAPTER: 13

FIA Card Services aka Bank of America  
by eCAST Settlement Corporation as its agent  
P.O. Box 35480  
Newark NJ, 07193-5480

ACCOUNT SUMMARY

Account Debtor: CARLIN, MICHAEL D  
SSN1: \*\*\*-\*\*-2914

Account Number: \*\*\*\*\*3220  
Account A/K/A Number: \*\*\*\*\*2682  
Account Type: CREDIT CARD

Open Date: 05/24/1997  
Charge off Date: 07/30/2008

| StartBal | Payments | Purchases | Cash Adv | Fin Chq | Late Chq | Endbal  | Enddt    |
|----------|----------|-----------|----------|---------|----------|---------|----------|
| 3729.83  | 0.00     | 0.00      | 0.00     | 0.00    | 0.00     | 3729.83 | 05/19/08 |
| 3834.58  | 136.00   | 0.00      | 0.00     | 31.25   | 0.00     | 3729.83 | 05/02/08 |
| 3940.43  | 136.11   | 0.00      | 0.00     | 30.26   | 0.00     | 3834.58 | 04/02/08 |
| 4043.44  | 136.11   | 0.00      | 0.00     | 33.10   | 0.00     | 3940.43 | 03/04/08 |
| 4010.68  | 0.00     | 0.00      | 0.00     | 32.76   | 0.00     | 4043.44 | 02/02/08 |
| 4113.23  | 136.11   | 0.00      | 0.00     | 33.56   | 0.00     | 4010.68 | 01/03/08 |
| 4349.09  | 272.32   | 0.00      | 0.00     | 36.46   | 0.00     | 4113.23 | 12/04/07 |

Pursuant to paragraph 7 Official Bankruptcy Form 10, Proof of Claim, in lieu of attaching voluminous account documents, a summary of the account, compiled from the information contained in the account databases of eCAST Settlement Corporation, and/or FIA Card Services aka Bank of America, if any, is provided. (See Instructions to Official Form 10). This debt arises from the use of a credit / charge card account or other money loaned, the supporting documents for which were provided by FIA Card Services aka Bank of America, to the debtor pre-petition. For further information about this claim call 1-800-962-6030 and ask to speak to the Claims Servicing Supervisor. Some documents may no longer be available.

# MICHAEL D. CARLIN

Attorney and Counsellor at Law

21st. Floor

26 Broadway

New York, New York 10004

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E-MAIL: mcarlin721@aol.com

TEL.: (212) 269-3100

FAX: (212) 269-7032

October 29, 2008

Ecast Settlement Corp.  
Pob 35480  
Newark, NJ 07192-5480

**Re: Michael D. Carlin**  
Chapter 13 Case No. 08-11689  
Southern District of New York  
Acct. #\*\*\*\*\*5113

To Whom It May Concern:

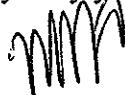
Please be advised that the undersigned has filed a Chapter 13 petition in the above-referenced matter. A proof of claim was filed on behalf of Ecast Settlement Corp. by your office in the amount of \$3,179.30, a copy of which is attached for your consideration.

Please be advised that the debtor disputes whether Ecast Settlement Corp. either purchased or was assigned this or any other one of debtor's accounts. Please send to the debtor at the address listed above verification that Ecast Settlement Corp. purchased this account from Chase Bank USA. In accordance with the Uniform Commercial Code, please provide copies of the Assignment(s) and other documents showing that Ecast Settlement Corp. is the Assignee of the debt and that you are legally authorized to collect this debt from the debtor. Please also provide the full corporate name and addressee of the original creditor(s). If Ecast Settlement Corp. did not receive this account from the original creditor, provide documentation of assignment(s) from the original creditor to the creditor from whom Ecast Settlement Corp. was assigned the account.

Please be advised that the debtor also disputes the liability and the amount claimed in this proof of claim. In reliance upon relevant Bankruptcy Court authorities, the debtor is entitled to demand and now hereby demands the following supporting documentation: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc. (In re Heath)*, 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471 at 481.

If you are unable to provide proof as to any of the items demanded above, I expect that the proof of claim will be withdrawn immediately. Otherwise, I shall consider the proof of claim to be fraudulent and will move the court two weeks after today's date to disallow and expunge the proof of claim.

Very truly yours,



MICHAEL D. CARLIN

|   |   |                              |
|---|---|------------------------------|
| UNITED STATES BANKRUPTCY COURT - SOUTHERN DISTRICT OF NEW YORK<br>NEW YORK DIVISION   |   | PROOF OF CLAIM<br>Chapter 13 |
| Name of Debtor MICHAEL D CARLIN   | Case Number 08-11689-MG   |                              |
| <p>NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.</p>  |   |                              |
| <p>Name of Creditor (The person or other entity to whom the debtor owes money or property):<br/>Chase Bank USA, N.A. by<br/>eCAST Settlement Corporation, as its agent</p> <p>Name and address where notices should be sent:<br/>eCAST Settlement Corporation<br/>P.O. Box 35480<br/>Newark, NJ 07193-5480</p> <p>Telephone number: (610) 644-7800 * see attachment</p> <p>Name and address where payments should be sent(if different from above)</p> <p>Telephone number:</p>   | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.<br><br><p>Court Claim Number: _____</p> <p>Filed on: _____</p> <p><input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.</p> <p><input type="checkbox"/> Check this box if you are the debtor or trustee in this case.</p> <p>S. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.<br/>Specify the priority of the claim</p> <p><input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).</p> <p><input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507 (a)(4).</p> <p><input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507 (a)(5).</p> <p><input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507 (a)(7).</p> <p><input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507 (a)(8).</p> <p><input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507 (a)(__).</p> <p>Amount entitled to priority:<br/>\$ _____</p> <p>*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</p> |                              |
| <p>1. Amount of Claim as of Date Case Filed: \$ 3,179.30</p> <p>If all or part of this claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.</p> <p>If all or part of your claim is entitled to priority, complete item 5.</p> <p><input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principle amount of claim. Attach itemized statement of interest or charges</p> <p>2. Basis for Claim: CREDIT CARD DEBT<br/>(See instruction #2 on reverse side.)</p> <p>3. Last four digits of any number by which creditor identifies debtor: ***** *5113<br/>3a. Debtor may have scheduled account as: Chase Bank USA, N.A.<br/>(See instruction #3a on reverse side.)</p> <p>4. Secured Claim (See instruction #4 on reverse side.)<br/>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.</p> <p>Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br/>Describe:<br/>Value of Property: \$ _____ Annual Interest Rate: _____ %</p> <p>Amount of arrearage and other charges as of time case filed included in secured claim,<br/>if any: \$ _____ Basis for perfection: _____</p> <p>Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____</p> <p>6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.</p> <p>7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary.<br/>(See definition of "redacted" on reverse side.)</p> <p>DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.</p> <p>If the documents are not available, please explain:</p> |   |                              |
| Date: 08/06/08  | FOR COURT USE ONLY  |                              |
| <p>/s/Thomas A. Lee III<br/>Becket &amp; Lee LLP, Attorneys/Agent for Creditor</p>  |   |                              |

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

\*By written agreement between Creditor and eCAST Settlement Corporation, eCAST Settlement Corporation has been authorized to file this proof of claim as agent for Creditor pending the Creditor's charge-off of the account and the transfer of the title to the account to eCAST Settlement Corporation. Creditor has further authorized eCAST Settlement Corporation to receive notices and payments with respect to this claim on Creditor's behalf, to be allocated pursuant to the terms of such agreement. ♠

BANKRUPT DEBTOR: CARLIN, MICHAEL D

A/K/A:

\*\*\*\*\*-2914

40 EXCHANGE PL STE 1706  
NEW YORK NY, 10005

BANKRUPTCY NUMBER: 08-11689-MG

FILING DATE: 05/05/2008

CHAPTER: 13

Chase Bank USA, N.A., by eCAST Settlement Corporation as its agent  
PO BOX 35480  
NEWARK, NJ, 07193-5480

ACCOUNT SUMMARY

Account Debtor: CARLIN, MICHAEL D  
SSN1: \*\*\*\*\*-2914

Account Number: \*\*\*\*\*5113  
Account Type: CREDIT CARD

Open Date: 01/01/1997

Balance at Filing = 3179.30

Pursuant to paragraph 7 Official Bankruptcy Form 10, Proof of Claim, in lieu of attaching voluminous account documents, a summary of the account, compiled from the information contained in the account databases of Chase Bank USA, N.A. and their agents, if any, is provided. (See Instructions to Official Form 10). This debt arises from the use of a credit / charge card account or other money loaned, the supporting documents for which were provided by Chase Bank USA, N.A. to the debtor pre-petition. For further information about this claim call 1-800-962-6030 and ask to speak to the Claims Servicing Supervisor. Some documents may no longer be available.

# MICHAEL D. CARLIN

Attorney and Counsellor at Law

21st. Floor

26 Broadway

New York, New York 10004

---

E-MAIL: mcarlin721@aol.com

TEL.: (212) 269-3100

FAX: (212) 269-7032

October 29, 2008

Ecast Settlement Corp.  
Pob 35480  
Newark, NJ 07192-5480

**Re: Michael D. Carlin**  
Chapter 13 Case No. 08-11689  
Southern District of New York  
Acct. #\*\*\*\*\*7171

To Whom It May Concern:

Please be advised that the undersigned has filed a Chapter 13 petition in the above-referenced matter. A proof of claim was filed on behalf of Ecast Settlement Corp. by your office in the amount of \$3,856.72, a copy of which is attached for your consideration.

Please be advised that the debtor disputes whether Ecast Settlement Corp. either purchased or was assigned this or any other one of debtor's accounts. Please send to the debtor at the address listed above verification that Ecast Settlement Corp. purchased this account from Chase Bank USA. In accordance with the Uniform Commercial Code, please provide copies of the Assignment(s) and other documents showing that Ecast Settlement Corp. is the Assignee of the debt and that you are legally authorized to collect this debt from the debtor. Please also provide the full corporate name and addressee of the original creditor. If Ecast Settlement Corp. did not receive this account from the original creditor, provide documentation of assignment(s) from the original creditor to the creditor from whom Ecast Settlement Corp. was assigned the account.

Please be advised that the debtor also disputes the liability and the amount claimed in this proof of claim. In reliance upon relevant Bankruptcy Court authorities, the debtor is entitled to demand and now hereby demands the following supporting documentation: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc. (In re Heath)*, 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471 at 481.

If you are unable to provide proof as to any of the items demanded above, I expect that the proof of claim will be withdrawn immediately. Otherwise, I shall consider the proof of claim to be fraudulent and will move the court two weeks after today's date to disallow and expunge the proof of claim.

Very truly yours,



MICHAEL D. CARLIN

|   |                    |   |
|---|--------------------|---|
| UNITED STATES BANKRUPTCY COURT - SOUTHERN DISTRICT OF NEW YORK<br>NEW YORK DIVISION   |                    | PROOF OF CLAIM<br>Chapter 13  |
| Name of Debtor MICHAEL D CARLIN   |                    | Case Number 08-11689-MG   |
| NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.   |                    |   |
| Name of Creditor (The person or other entity to whom the debtor owes money or property):<br><b>Chase Bank USA, N.A. by<br/>eCAST Settlement Corporation, as its agent</b>   |                    | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.  |
| Name and address where notices should be sent<br><br>eCAST Settlement Corporation<br>P.O. Box 35480<br>Newark, NJ 07193-5480  |                    | Court Claim Number: _____   |
| Telephone number: (610) 644-7800 * see attachment   |                    | Filed on: _____   |
| Name and address where payments should be sent (if different from above)  |                    | <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.   |
| Telephone number:   |                    | <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.  |
| 1. Amount of Claim as of Date Case Filed: \$ <b>3,856.72</b>  |                    | 5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.<br>Specify the priority of the claim               |
| If all or part of this claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.   |                    | <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).  |
| If all or part of your claim is entitled to priority, complete item 5.  |                    | <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4). |
| <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principle amount of claim. Attach itemized statement of interest or charges  |                    | <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).   |
| 2. Basis for Claim: CREDIT CARD DEBT<br>(See instruction #2 on reverse side.)   |                    | <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7).   |
| 3. Last four digits of any number by which creditor identifies debtor: *****7171<br>3a. Debtor may have scheduled account as: Chase Bank USA, N.A.<br>(See instruction #3a on reverse side.)  |                    | <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).   |
| 4. Secured Claim (See instruction #4 on reverse side.)<br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.  |                    | <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(__).  |
| Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br>Describe:<br>Value of Property: \$ _____ Annual Interest Rate: _____ %   |                    | Amount entitled to priority:<br>\$ _____  |
| Amount of arrearage and other charges as of time case filed included in secured claim,<br>if any: \$ _____ Basis for perfection: _____  |                    | *Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.   |
| Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____  |                    |   |
| 6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.   |                    |   |
| 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary.<br>(See definition of "redacted" on reverse side.) |                    |   |
| DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.   |                    |   |
| If the documents are not available, please explain:   |                    |   |
| Date: 08/06/08  | FOR COURT USE ONLY |   |
| <p>/s/Thomas A. Lee III<br/>Becket &amp; Lee LLP, Attorneys/Agent for Creditor</p>  |                    |   |

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BANKRUPT DEBTOR: CARLIN, MICHAEL D  
A/K/A:  
\*\*\*\*\*-2914  
40 EXCHANGE PL STE 1706  
NEW YORK NY, 10005

BANKRUPTCY NUMBER: 08-11689-MG  
FILING DATE: 05/05/2008  
CHAPTER: 13

Chase Bank USA, N.A., by eCAST Settlement Corporation as its agent  
PO BOX 35480  
NEWARK, NJ, 07193-5480

ACCOUNT SUMMARY

Account Debtor: CARLIN, MICHAEL D  
SSN1: \*\*\*\*\*-\*\*-2914

Account Number: \*\*\*\*\*7171  
Account A/K/A Number: \*\*\*\*\*7205  
Account Type: CREDIT CARD

Open Date: 10/18/1995

Balance at Filing = 3856.72

Pursuant to paragraph 7 Official Bankruptcy Form 10, Proof of Claim, in lieu of attaching voluminous account documents, a summary of the account, compiled from the information contained in the account databases of Chase Bank USA, N.A. and their agents, if any, is provided. (See Instructions to Official Form 10). This debt arises from the use of a credit / charge card account or other money loaned, the supporting documents for which were provided by Chase Bank USA, N.A. to the debtor pre-petition. For further information about this claim call 1-800-962-6030 and ask to speak to the Claims Servicing Supervisor. Some documents may no longer be available.

# MICHAEL D. CARLIN

Attorney and Counsellor at Law

21st. Floor

26 Broadway

New York, New York 10004

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E-MAIL: mcarlin721@aol.com

TEL.: (212) 269-3100

FAX: (212) 269-7032

October 29, 2008

Ecast Settlement Corp.  
Pob 35480  
Newark, NJ 07192-5480

**Re: Michael D. Carlin**  
Chapter 13 Case No. 08-11689  
Southern District of New York  
Acct. #\*\*\*\*\*9147

To Whom It May Concern:

Please be advised that the undersigned has filed a Chapter 13 petition in the above-referenced matter. A proof of claim was filed on behalf of Ecast Settlement Corp. by your office in the amount of \$998.85, a copy of which is attached for your consideration.

Please be advised that the debtor disputes whether Ecast Settlement Corp. either purchased or was assigned this or any other one of debtor's accounts. Please send to the debtor at the address listed above verification that Ecast Settlement Corp. purchased this account from FIA Card Services aka Bank of America. In accordance with the Uniform Commercial Code, please provide copies of the Assignment(s) and other documents showing that Ecast Settlement Corp. is the Assignee of the debt and that you are legally authorized to collect this debt from the debtor. Please also provide the full corporate names and addresses of the original creditor(s). If Ecast Settlement Corp. did not receive this account from the original creditor, provide documentation of assignment(s) from the original creditor to the creditor from whom Ecast Settlement Corp. was assigned the account.

Please be advised that the debtor also disputes the liability and the amount claimed in this proof of claim. In reliance upon relevant Bankruptcy Court authorities, the debtor is entitled to demand and now hereby demands the following supporting documentation: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc. (In re Heath)*, 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471 at 481.

If you are unable to provide proof as to any of the items demanded above, I expect that the proof of claim will be withdrawn immediately. Otherwise, I shall consider the proof of claim to be fraudulent and will move the court two weeks after today's date to disallow and expunge the proof of claim.

Very truly yours,



MICHAEL D. CARLIN

|  |  |                              |
|--|--|------------------------------|
| UNITED STATES BANKRUPTCY COURT - SOUTHERN DISTRICT OF NEW YORK<br>NEW YORK DIVISION  |  | PROOF OF CLAIM<br>Chapter 13 |
| Name of Debtor MICHAEL D CARLIN  | Case Number 08-11689-MG  |                              |
| <p>NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.</p>   |  |                              |
| <p>Name of Creditor (The person or other entity to whom the debtor owes money or property):<br/><u>FIA Card Services aka Bank of America<br/>by eCAST Settlement Corporation, as its agent</u></p> <p>Name and address where notices should be sent<br/>eCAST Settlement Corporation<br/>P.O. Box 35480<br/>Newark, NJ 07193-5480</p> <p>Telephone number: (610) 644-7800 * see attachment</p> <p>Name and address where payments should be sent (if different from above)</p> <p>Telephone number:</p>  | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.<br><br><p>Court Claim Number: _____</p> <p>Filed on: _____</p> <p><input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.</p> <p><input type="checkbox"/> Check this box if you are the debtor or trustee in this case.</p> <p>5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.<br/>Specify the priority of the claim</p> <p><input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).</p> <p><input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4).</p> <p><input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).</p> <p><input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7).</p> <p><input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).</p> <p><input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(__).</p> <p>Amount entitled to priority:<br/>\$ _____</p> <p>*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</p> |                              |
| <p>1. Amount of Claim as of Date Case Filed: \$ <u>998.85</u></p> <p>If all or part of this claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.</p> <p>If all or part of your claim is entitled to priority, complete item 5.</p> <p><input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principle amount of claim. Attach itemized statement of interest or charges</p> <p>2. Basis for Claim: CREDIT CARD DEBT<br/>(See instruction #2 on reverse side.)</p> <p>3. Last four digits of any number by which creditor identifies debtor: *****9147<br/>3a. Debtor may have scheduled account as: FIA Card Services aka Bank of America<br/>(See instruction #3a on reverse side.)</p> <p>4. Secured Claim (See instruction #4 on reverse side.)<br/>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.</p> <p>Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br/>Describe:<br/>Value of Property: \$ _____ Annual Interest Rate: _____ %</p> <p>Amount of arrearage and other charges as of time case filed included in secured claim.</p> <p>If any: \$ _____ Basis for perfection: _____</p> <p>Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____</p> <p>6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.</p> <p>7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary.<br/>(See definition of "redacted" on reverse side.)</p> <p>DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.</p> <p>If the documents are not available, please explain:</p> |  |                              |
| Date: 08/06/08   | FOR COURT USE ONLY   |                              |

/s/Thomas A. Lee III  
Becket & Lee LLP, Attorneys/Agent for Creditor

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

\*By written agreement between Creditor and eCAST Settlement Corporation, eCAST Settlement Corporation has been authorized to file this proof of claim as agent for Creditor pending the Creditor's charge-off of the account and the transfer of the title to the account to eCAST Settlement Corporation. Creditor has further authorized eCAST Settlement Corporation to receive notices and payments with respect to this claim on Creditor's behalf, to be allocated pursuant to the terms of such agreement. ♠

BANKRUPT DEBTOR: CARLIN, MICHAEL D

A/K/A:

\*\*\*\*-\*\*-2914

40 EXCHANGE PL STE 1706  
NEW YORK NY, 100052722

BANKRUPTCY NUMBER: 08-11689-MG

FILING DATE: 05/05/2008

CHAPTER: 13

FIA Card Services aka Bank of America  
by eCAST Settlement Corporation as its agent  
P.O. Box 35480  
Newark NJ, 07193-5480

ACCOUNT SUMMARY

Account Debtor: CARLIN, MICHAEL D  
SSN1: \*\*\*\*-\*\*-2914

Account Number: \*\*\*\*\*9147

Account A/K/A Number: \*\*\*\*\*9847

Account Type: CREDIT CARD

Open Date: 08/18/1993

Charge off Date: 07/30/2008

| StartBal | Payments | Purchases | Cash Adv | Fin Chq | Late Chq | Endbal  | Enddt    |
|----------|----------|-----------|----------|---------|----------|---------|----------|
| 998.85   | 0.00     | 0.00      | 0.00     | 0.00    | 0.00     | 998.85  | 05/19/08 |
| 1069.16  | 79.00    | 0.00      | 0.00     | 8.69    | 0.00     | 998.85  | 05/02/08 |
| 1139.69  | 79.03    | 0.00      | 0.00     | 8.50    | 0.00     | 1069.16 | 04/02/08 |
| 1209.11  | 79.03    | 0.00      | 0.00     | 9.61    | 0.00     | 1139.69 | 03/04/08 |
| 1199.31  | 0.00     | 0.00      | 0.00     | 9.80    | 0.00     | 1209.11 | 02/02/08 |
| 1268.00  | 79.03    | 0.00      | 0.00     | 10.34   | 0.00     | 1199.31 | 01/03/08 |
| 1414.61  | 158.10   | 0.00      | 0.00     | 11.49   | 0.00     | 1268.00 | 12/04/07 |

Pursuant to paragraph 7 Official Bankruptcy Form 10, Proof of Claim, in lieu of attaching voluminous account documents, a summary of the account, compiled from the information contained in the account databases of eCAST Settlement Corporation, and/or FIA Card Services aka Bank of America, if any, is provided. (See Instructions to Official Form 10). This debt arises from the use of a credit / charge card account or other money loaned, the supporting documents for which were provided by FIA Card Services aka Bank of America, to the debtor pre-petition. For further information about this claim call 1-800-962-6030 and ask to speak to the Claims Servicing Supervisor. Some documents may no longer be available.

# MICHAEL D. CARLIN

Attorney and Counsellor at Law

21st. Floor  
26 Broadway

New York, New York 10004

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E-MAIL: mcarlin721@aol.com

TEL.: (212) 269-3100

FAX: (212) 269-7032

October 29, 2008

Ecast Settlement Corp.  
Pob 35480  
Newark, NJ 07192-5480

Re: Michael D. Carlin  
Chapter 13 Case No. 08-11689  
Southern District of New York  
Acct. #\*\*\*\*\*9306

To Whom It May Concern:

Please be advised that the undersigned has filed a Chapter 13 petition in the above-referenced matter. A proof of claim was filed on behalf of Ecast Settlement Corp. by your office in the amount of \$2,402.25, a copy of which is attached for your consideration.

Please be advised that the debtor disputes whether Ecast Settlement Corp. either purchased or was assigned this or any other one of debtor's accounts. Please send to the debtor at the address listed above verification that Ecast Settlement Corp. purchased this account from Chase Bank USA. In accordance with the Uniform Commercial Code, please provide copies of the Assignment(s) and other documents showing that Ecast Settlement Corp. is the Assignee of the debt and that you are legally authorized to collect this debt from the debtor. Please also provide the full corporate name and addressee of the original creditor(s). If Ecast Settlement Corp. did not receive this account from the original creditor, provide documentation of assignment(s) from the original creditor to the creditor from whom Ecast Settlement Corp. was assigned the account.

Please be advised that the debtor also disputes the liability and the amount claimed in this proof of claim. In reliance upon relevant Bankruptcy Court authorities, the debtor is entitled to demand and now hereby demands the following supporting documentation: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc. (In re Heath)*, 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471 at 481.

If you are unable to provide proof as to any of the items demanded above, I expect that the proof of claim will be withdrawn immediately. Otherwise, I shall consider the proof of claim to be fraudulent and will move the court two weeks after today's date to disallow and expunge the proof of claim.

Very truly yours,

MICHAEL D. CARLIN

|   |   |                              |
|---|---|------------------------------|
| UNITED STATES BANKRUPTCY COURT - SOUTHERN DISTRICT OF NEW YORK<br>NEW YORK DIVISION   |   | PROOF OF CLAIM<br>Chapter 13 |
| Name of Debtor: MICHAEL D CARLIN<br>AKA: MICHAEL CARLIN   | Case Number 08-11689-MG   |                              |
| NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.   |   |                              |
| Name of Creditor (The person or other entity to whom the debtor owes money or property):<br>Chase Bank USA, N.A. by<br>eCAST Settlement Corporation, as its agent   | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.  |                              |
| Name and address where notices should be sent<br>eCAST Settlement Corporation<br>P.O. Box 35480<br>Newark, NJ 07193-5480  | Court Claim Number: _____   |                              |
| Telephone number: (610) 644-7800 * see attachment   | Filed on: _____   |                              |
| Name and address where payments should be sent(if different from above)   | <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.   |                              |
| Telephone number:   | <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.  |                              |
| 1. Amount of Claim as of Date Case Filed: \$ 2,402.25   | 5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.<br>Specify the priority of the claim               |                              |
| If all or part of this claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4  | <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).  |                              |
| If all or part of your claim is entitled to priority, complete item 5.  | <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4). |                              |
| <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principle amount of claim.<br>Attach itemized statement of interest or charges   | <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).   |                              |
| 2. Basis for Claim: CREDIT CARD DEBT<br>(See instruction #2 on reverse side.)   | <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7).   |                              |
| 3. Last four digits of any number by which creditor identifies debtor: *****9306<br>3a. Debtor may have scheduled account as: Chase Bank USA, N.A.<br>(See instruction #3a on reverse side.)  | <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).   |                              |
| 4. Secured Claim (See instruction #4 on reverse side.)<br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.<br><br>Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br>Describe:<br>Value of Property: \$ _____ Annual Interest Rate: _____ %                   | <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(__).<br><br>Amount entitled to priority:<br>\$ _____  |                              |
| Amount of arrearage and other charges as of time case filed included in secured claim,<br>if any: \$ _____ Basis for perfection: _____  | *Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.   |                              |
| Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____  |   |                              |
| 6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.   |   |                              |
| 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary.<br>(See definition of "redacted" on reverse side.) |   |                              |
| DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.   |   |                              |
| If the documents are not available, please explain:   |   |                              |
| Date: 08/06/08  | FOR COURT USE ONLY  |                              |
| <p>/s/Thomas A. Lee III<br/>Becket &amp; Lee LLP, Attorneys/Agent for Creditor</p>  |   |                              |

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

\*By written agreement between Creditor and eCAST Settlement Corporation, eCAST Settlement Corporation has been authorized to file this proof of claim as agent for Creditor pending the Creditor's charge-off of the account and the transfer of the title to the account to eCAST Settlement Corporation. Creditor has further authorized eCAST Settlement Corporation to receive notices and payments with respect to this claim on Creditor's behalf, to be allocated pursuant to the terms of such agreement. ♠

BANKRUPT DEBTOR: CARLIN, MICHAEL D  
A/K/A: CARLIN, MICHAEL  
\*\*\*\*\*-2914  
40 EXCHANGE PL STE 1706  
NEW YORKK NY, 10005

BANKRUPTCY NUMBER: 08-11689-MG  
FILING DATE: 05/05/2008  
CHAPTER: 13

Chase Bank USA, N.A., by eCAST Settlement Corporation as its agent  
PO BOX 35480  
NEWARK, NJ, 07193-5480

ACCOUNT SUMMARY

Account Debtor: CARLIN, MICHAEL D  
Account A/K/A: CARLIN, MICHAEL  
SSN1: \*\*\*\*\*-2914

Account Number: \*\*\*\*\*9306  
Account Type: CREDIT CARD

Open Date: 10/16/1995

Balance at Filing = 2402.25

Pursuant to paragraph 7 Official Bankruptcy Form 10, Proof of Claim, in lieu of attaching voluminous account documents, a summary of the account, compiled from the information contained in the account databases of Chase Bank USA, N.A. and their agents, if any, is provided. (See Instructions to Official Form 10). This debt arises from the use of a credit / charge card account or other money loaned, the supporting documents for which were provided by Chase Bank USA, N.A. to the debtor pre-petition. For further information about this claim call 1-800-962-6030 and ask to speak to the Claims Servicing Supervisor. Some documents may no longer be available.

# MICHAEL D. CARLIN

Attorney and Counsellor at Law

21st. Floor  
26 Broadway

New York, New York 10004

---

E-MAIL: mcarlin721@aol.com

TEL.: (212) 269-3100

FAX: (212) 269-7032

October 29, 2008

FIA Card Services aka Bank of America  
c/o Becket and Lee LLP  
POB 3001  
Malvern Pa 19355-0701

Re: Michael D. Carlin  
Chapter 13 Case No. 08-11689  
Southern District of New York  
Acct. #\*\*\*\*\*0716

To Whom It May Concern:

Please be advised that the undersigned has filed a Chapter 13 petition in the above-referenced matter. A proof of claim was filed on behalf of FIA Card Services aka Bank of America by your office in the amount of \$14,805.02, a copy of which is attached for your consideration.

Please be advised that the debtor disputes whether FIA Card Services aka Bank of America either purchased or was assigned this or any other one of debtor's accounts. Pursuant to relevant Bankruptcy Court authority (*In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471), please send to the debtor at the address listed above verification that FIA Card Services aka Bank of America purchased this account from MBNA or any other entity. In accordance with the Uniform Commercial Code, please provide copies of the Assignment(s) and other documents showing that FIA Card Services aka Bank of America is the Assignee of the debt and that you are legally authorized to collect this debt from the debtor. Please also provide the full corporate name and address of the original creditor(s). If FIA Card Services aka Bank of America did not receive this account from the original creditor, provide documentation of assignment(s) from the original creditor to the creditor from whom FIA Card Services aka Bank of America was assigned the account.

Please be advised that the debtor also disputes the liability and the amount claimed in this proof of claim. In reliance upon relevant Bankruptcy Court authorities, the debtor is entitled to demand and now hereby demands the following supporting documentation: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc.* (*In re Heath*), 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471 at 481.

If you are unable to provide proof as to any of the items demanded above, I expect that the proof of claim will be withdrawn immediately. Otherwise, I shall consider the proof of claim to be fraudulent and will move the court two weeks after today's date to disallow and expunge the proof of claim.

Very truly yours,

  
MICHAEL D. CARLIN

|   |   |                              |
|---|---|------------------------------|
| UNITED STATES BANKRUPTCY COURT - SOUTHERN DISTRICT OF NEW YORK<br>NEW YORK DIVISION   |   | PROOF OF CLAIM<br>Chapter 13 |
| Name of Debtor MICHAEL D CARLIN<br>AKA: MICHAEL CARLIN  | Case Number 08-11689-MG   |                              |
| NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.   |   |                              |
| Name of Creditor (The person or other entity to whom the debtor owes money or property):<br>FIA Card Services aka Bank of America   | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.  |                              |
| Name and address where notices should be sent<br><i>FIA Card Services aka Bank of America<br/>c/o Becket &amp; Lee LLP<br/>Attorneys/Agent for Creditor<br/>PO Box 3001<br/>Malvern, PA 19355-0701</i>  | Court Claim Number: _____   |                              |
| Telephone number: (610) 644-7800  | Filed on: _____   |                              |
| Name and address where payments should be sent(if different from above)   | <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.   |                              |
| Telephone number:   | <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.  |                              |
| 1. Amount of Claim as of Date Case Filed: \$ <u>14,805.02</u>   | 5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.<br>Specify the priority of the claim.              |                              |
| If all or part of this claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4  | <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).  |                              |
| If all or part of your claim is entitled to priority, complete item 5.  | <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4). |                              |
| <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principle amount of claim. Attach itemized statement of interest or charges  | <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).   |                              |
| 2. Basis for Claim: Other<br>(See instruction #2 on reverse side.)  | <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7).   |                              |
| 3. Last four digits of any number by which creditor identifies debtor: * * * * * 0716<br>3a. Debtor may have scheduled account as: FIA Card Services aka Bank of America<br>(See instruction #3a on reverse side.)  | <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).   |                              |
| 4. Secured Claim (See instruction #4 on reverse side.)<br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.  | <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(_)  |                              |
| Nature of property or right of set-off: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br>Describe:<br>Value of Property: \$ _____ Annual Interest Rate _____ %   | Amount entitled to priority:<br>\$ _____  |                              |
| Amount of arrearage and other charges as of time case filed included in secured claim,<br>if any: \$ _____ Basis for perfection: _____  | *Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.   |                              |
| Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____  |   |                              |
| 6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.   |   |                              |
| 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary.<br>(See definition of "redacted" on reverse side.) |   |                              |
| DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.   |   |                              |
| If the documents are not available, please explain:   |   |                              |
| Date: 08/12/08  | FOR COURT USE ONLY  |                              |
| <p>/s/Thomas A. Lee III<br/>Becket &amp; Lee LLP, Attorneys/Agent for Creditor</p>  |   |                              |

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

BANKRUPT DEBTOR: CARLIN, MICHAEL D  
A/K/A: CARLIN, MICHAEL  
\*\*\*\*-\*\*-2914  
40 EXCHANGE PL STE 1706  
NEW YORK NY, 100052722

BANKRUPTCY NUMBER: 08-11689-MG  
FILING DATE: 05/05/2008  
CHAPTER: 13

FIA Card Services aka Bank of America  
c/o Becket & Lee LLP  
Attorneys/Agent for Creditor  
PO Box 3001  
Malvern, PA 19355-0701

ACCOUNT SUMMARY

Account Debtor: CARLIN, MICHAEL D  
Account A/K/A: CARLIN, MICHAEL  
SSN1: \*\*\*\*-\*\*-2914

Account Number: \*\*\*\*\*0716  
Account A/K/A Number: \*\*\*\*\*9253  
Account Type: Credit Card

Open Date: 08/21/1996  
Charge off Date: 07/30/2008

| StartBal | Payments | Purchases | Cash Adv | Fin Chq | Late Chq | Endbal   | Enddt    |
|----------|----------|-----------|----------|---------|----------|----------|----------|
| 14805.02 | 0.00     | 0.00      | 0.00     | 0.00    | 0.00     | 14805.02 | 05/19/08 |
| 15264.99 | 485.00   | 0.00      | 0.00     | 25.03   | 0.00     | 14805.02 | 05/03/08 |
| 15726.02 | 485.40   | 0.00      | 0.00     | 24.37   | 0.00     | 15264.99 | 04/03/08 |
| 16185.57 | 485.40   | 0.00      | 0.00     | 25.85   | 0.00     | 15726.02 | 03/05/08 |
| 16158.11 | 0.00     | 0.00      | 0.00     | 27.46   | 0.00     | 16185.57 | 02/04/08 |
| 16616.23 | 485.40   | 0.00      | 0.00     | 27.28   | 0.00     | 16158.11 | 01/04/08 |
| 17071.89 | 485.40   | 0.00      | 0.00     | 29.74   | 0.00     | 16616.23 | 12/05/07 |

Pursuant to paragraph 7 Official Bankruptcy Form 10, Proof of Claim, in lieu of attaching voluminous account documents, a summary of the account, compiled from the information contained in the account databases of FIA Card Services aka Bank of America, if any, is provided. (See Instructions to Official Form 10). This debt arises from the use of a credit / charge card account or other money loaned, the supporting documents for which were provided by FIA Card Services aka Bank of America, to the debtor pre-petition. For further information about this claim call 1-800-962-6030 and ask to speak to the Claims Servicing Supervisor. Some documents may no longer be available.

# MICHAEL D. CARLIN

Attorney and Counsellor at Law

21st. Floor

26 Broadway

New York, New York 10004

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E-MAIL: mcarlin721@aol.com

TEL.: (212) 269-3100

FAX: (212) 269-7032

October 29, 2008

RBS Citizens NA  
POB 7054  
BRIDGEPORT, CT 06601

**Re: Michael D. Carlin**  
Chapter 13 Case No. 08-11689  
Southern District of New York  
Acct. #\*\*\*\*\*1809

To Whom It May Concern:

Please be advised that the undersigned has filed a Chapter 13 petition in the above-referenced matter. A proof of claim was filed on behalf of RBS Citizens NA. by your office in the amount of \$730.89, a copy of which is attached for your consideration.

Please be advised that the debtor disputes whether RBS Citizens NA either purchased or was assigned this or any other one of debtor's accounts. Pursuant to relevant Bankruptcy Court authority (*In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471), please send to the debtor at the address listed above verification that RBS Citizens NA purchased this account from any other entity. In accordance with the Uniform Commercial Code, please provide copies of the Assignment(s) and other documents showing that RBS Citizens NA is the Assignee of the debt and that you are legally authorized to collect this debt from the debtor. Please also provide the full corporate name and address of the original creditor(s). If RBS Citizens did not receive this account from the original creditor, provide documentation of assignment(s) from the original creditor to the creditor from whom RBS Citizens NA. was assigned the account.

Please be advised that the debtor also disputes the liability and the amount claimed in this proof of claim. In reliance upon relevant Bankruptcy Court authorities, the debtor is entitled to demand and now hereby demands the following supporting documentation: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc. (In re Heath)*, 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471 at 481.

If you are unable to provide proof as to any of the items demanded above, I expect that the proof of claim will be withdrawn immediately. Otherwise, I shall consider the proof of claim to be fraudulent and will move the court two weeks after today's date to disallow and expunge the proof of claim.

Very truly yours,



MICHAEL D. CARLIN

| UNITED STATES BANKRUPTCY COURT      NEW YORK   |   | PROOF OF CLAIM     |
|--|---|--------------------|
| Name of Debtor:<br><b>MICHAEL CARLIN</b>   | Case Number:<br><b>08-11689-MG</b>  |                    |
| NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.  |   |                    |
| Name of Creditor (the person or other entity to whom the debtor owes money or property):<br><b>RBS CITIZENS N A</b>  | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.  |                    |
| Name and address where notices should be sent:<br><br><b>RBS Citizens N A</b><br>PO Box 7054 Bridgeport CT 06601   | Court Claim Number: _____<br>(If known)   |                    |
| Telephone number:<br><b>(203) 551-3736</b>   | Filed on: _____   |                    |
| Name and address where payment should be sent (if different from above):<br><br>Telephone number:  | <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.   |                    |
| 1. Amount of Claim as of Date Case Filed:      \$ <b>730.89</b>  | <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.  |                    |
| If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.<br><br>If all or part of your claim is entitled to priority, complete item 5.<br><br><input checked="" type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.                          | 5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.<br><br>Specify the priority of the claim.   |                    |
| 2. Basis for Claim: <b>Credit Card Charges</b><br>(See instruction #2 on reverse side.)  | <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).   |                    |
| 3. Last four digits of any number by which creditor identifies debtor: <b>1809</b>   | <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4).   |                    |
| 3a. Debtor may have scheduled account as: _____<br>(See instruction #3a on reverse side.)  | <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5).   |                    |
| 4. Secured Claim (See instruction #4 on reverse side.)<br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.   | <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).   |                    |
| Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br>Describe:<br><br>Value of Property: \$ _____ Annual Interest Rate ____ %  | <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).   |                    |
| Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: _____  | <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(____).<br><br>Amount entitled to priority: \$ _____   |                    |
| Amount of Secured Claim: \$ <b>730.89</b> Amount Unsecured: \$ <b>730.89</b>   |   |                    |
| 6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.  |   |                    |
| 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See definition of "redacted" on reverse side.) |   |                    |
| DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.  |   |                    |
| If the documents are not available, please explain:  |   |                    |
| Date:<br><b>09/04/2008</b>   | Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. |                    |
| /s/Jackie Smalls   |   | FOR COURT USE ONLY |

\*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

**INSTRUCTIONS FOR PROOF OF CLAIM FORM**

*The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, there may be exceptions to these general rules.*

**Items to be completed in Proof of Claim form****Court, Name of Debtor, and Case Number:**

Fill in the federal judicial district where the bankruptcy case was filed (for example, Central District of California), the bankruptcy debtor's name, and the bankruptcy case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is located at the top of the notice.

**Creditor's Name and Address:**

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

**1. Amount of Claim as of Date Case Filed:**

State the total amount owed to the creditor on the date of the Bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

**2. Basis for Claim:**

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card.

**3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:**

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

**3a. Debtor May Have Scheduled Account As:**

Use this space to report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

**4. Secured Claim:**

Check the appropriate box and provide the requested information if the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See DEFINITIONS, below.) State the type and the value of property that secures the claim, attach copies of lien

documentation, and state annual interest rate and the amount past due on the claim as of the date of the bankruptcy filing.

**5. Amount of Claim Entitled to Priority Under 11 U.S.C. §507(a).**

If any portion of your claim falls in one or more of the listed categories, check the appropriate box(es) and state the amount entitled to priority. (See DEFINITIONS, below.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

**6. Credits:**

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

**7. Documents:**

Attach to this proof of claim redacted copies documenting the existence of the debt and of any lien securing the debt. You may also attach a summary. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary. FRBP 3001(c) and (d). Do not send original documents, as attachments may be destroyed after scanning.

**Date and Signature:**

The person filing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2), authorizes courts to establish local rules specifying what constitutes a signature. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. Attach a complete copy of any power of attorney. Criminal penalties apply for making a false statement on a proof of claim.

**DEFINITIONS****INFORMATION****Debtor**

A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

**Creditor**

A creditor is the person, corporation, or other entity owed a debt by the debtor on the date of the bankruptcy filing.

**Claim**

A claim is the creditor's right to receive payment on a debt that was owed by the debtor on the date of the bankruptcy filing. See 11 U.S.C. §101 (5). A claim may be secured or unsecured.

**Proof of Claim**

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with the clerk of the same bankruptcy court in which the bankruptcy case was filed.

**Secured Claim Under 11 U.S.C. §506(a)**

A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car.

A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien. A claim also may be secured if the creditor owes the debtor money (has a right to setoff).

**Unsecured Claim**

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

**Claim Entitled to Priority Under 11 U.S.C. §507(a)**

Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

**Redacted**

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor should redact and use only the last four digits of any social-security, individual's tax-identification, or financial-account number, all but the initials of a minor's name and only the year of any person's date of birth.

**Evidence of Perfection**

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

**Acknowledgment of Filing of Claim**

To receive acknowledgment of your filing, you may either enclose a stamped self-addressed envelope and a copy of this proof of claim or you may access the court's PACER system ([www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov)) for a small fee to view your filed proof of claim.

**Offers to Purchase a Claim**

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 *et seq.*), and any applicable orders of the bankruptcy court.



PO BOX 18204  
BRIDGEPORT, CT 06601-3204  
1-800-747-8155

RBS CARD SERVICES  
PO BOX 42010  
PROVIDENCE, RI 02940-2010

|                    |                     |
|--------------------|---------------------|
| Account Number     | 5545 1410 0137 1809 |
| New Balance        | \$730.89            |
| Payment Due Date   | NOW DUE             |
| Minimum Amount Due | \$239.49            |
| Past Due Amount    | \$159.49            |

Total Enclosed

MICHAEL CARLIN  
40 EXCHANGE PL STE 1706  
NEW YORK, NY 10005-2722

\*\* 0005747  
030

\$

Check for change of address. Complete new address on reverse.

0541001371809 000023949 000073089

Detach here. Only this top portion and your payment should be included in the envelope. Make your check payable to Rbs Card Services.

Account Number: 5545 1410 0137 1809

Billing Period: 04/23/08 - 05/22/08

RBS MASTERCARD PLATINUM

| Total Credit Limit | Available Credit | Cash Advances Limit | Available for Cash Advances | Closing Date | Minimum Payment Due | Payment Due Date |
|--------------------|------------------|---------------------|-----------------------------|--------------|---------------------|------------------|
| \$0                | \$0              | \$0                 | \$0                         | 05/22/08     | \$239.49            | NOW DUE          |

You can avoid finance charges on Purchases if you pay the entire New Balance by the Payment Due Date for every billing cycle. This grace period does not apply to Balance Transfers, Cash Advances or Previous Balance. See the back of your statement for details about your 'GRACE PERIOD'.

#### BALANCE SUMMARY

|                              |    |             |
|------------------------------|----|-------------|
| Previous Balance             | \$ | 806.27      |
| Payments and Credits         | -  | 80.00       |
| Cash Advances                | +  | 0.00        |
| Purchases and Other Charges  | +  | 0.00        |
| <b>Total FINANCE CHARGES</b> | +  | <b>4.62</b> |
| <br>New Balance              | \$ | <br>730.89  |

To discuss your payment options, please call 1-800-747-8155.

#### ACCOUNT ACTIVITY

| Trans Date                         | Post Date | Reference Number       | Transaction Description           | Amount    |
|------------------------------------|-----------|------------------------|-----------------------------------|-----------|
| <b>PAYMENTS AND CREDITS</b>        |           |                        |                                   |           |
| 05/01                              | 05/01     | 7554514812200000000475 | PAYMENT - THANK YOU BRIDGEPORT CT | 80.00 (-) |
| <b>PURCHASES AND OTHER CHARGES</b> |           |                        |                                   |           |
| 05/22                              | 05/22     |                        | CASH FINANCE CHARGE               | 4.62      |

#### FINANCE CHARGE SUMMARY

|                                  | Average Daily Balance | Daily Periodic Rate* | Corresponding ANNUAL PERCENTAGE RATE* | Periodic FINANCE CHARGE |
|----------------------------------|-----------------------|----------------------|---------------------------------------|-------------------------|
| <b>Days In Billing Cycle: 30</b> |                       |                      |                                       |                         |
| Purchases                        | \$0.00                | .02052%              | 7.49%                                 | \$0.00                  |
| Cash Advances                    | \$749.87              | .02052%              | 7.49%                                 | \$4.62                  |
| Balance Transfers                | \$0.00                | .02052%              | 7.49%                                 | \$0.00                  |

See reverse for important information.

**ANNUAL PERCENTAGE RATE**

7.49 %

Transaction fees are included in the Annual Percentage Rate and may cause it to appear inflated.

# MICHAEL D. CARLIN

Attorney and Counsellor at Law

21st. Floor  
26 Broadway

New York, New York 10004

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E-MAIL: mcarlin721@aol.com

TEL.: (212) 269-3100

FAX: (212) 269-7032

October 29, 2008

Dell Financial Services, L.L.C.  
RESURGENT CAPITAL SERVICES  
POB 10390  
GREENVILLE, SC 29603-0390

Re: Michael D. Carlin  
Chapter 13 Case No. 08-11689  
Southern District of New York  
Acct. #\*\*\*\*\*9348

To Whom It May Concern:

Please be advised that the undersigned has filed a Chapter 13 petition in the above-referenced matter. A proof of claim was filed by your office on behalf of Dell Financial Services, L.L.C. in the amount of \$1,106.26, a copy of which is attached for your consideration.

Please be advised that the debtor disputes whether this is properly listed as a secured claim since it does not appear that this claim was ever perfected by a legal filing. Additionally, since this equipment in question is essential to the operation of my business/profession, it is deemed exempt property.

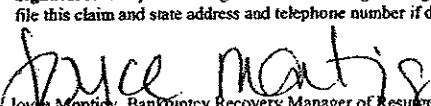
Please be advised that the debtor disputes the liability and the amount claimed in this proof of claim. In reliance upon relevant Bankruptcy Court authorities, the debtor is entitled to demand and now hereby demands the following supporting documentation: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc. (In re Heath)*, 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471 at 481.

If you are unable to provide proof as to any of the items demanded above, I expect that the proof of claim will be withdrawn immediately. Otherwise, I shall consider the proof of claim to be fraudulent and will move the court two weeks after today's date to disallow and expunge the proof of claim.

Very truly yours,



MICHAEL D. CARLIN

| UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK   |   | PROOF OF CLAIM |                    |
|--|---|----------------|--------------------|
| Name of Debtor:<br><b>Carlin Michael</b>   | Case Number:<br><b>0811689</b>  |                |                    |
| NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.  |   |                |                    |
| Name of Creditor (the person or other entity to whom the debtor owes money or property):<br><b>Dell Financial Services L.L.C.</b>  | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.  |                |                    |
| Name and address where notices should be sent:<br><br><b>Dell Financial Services, LLC<br/>c/o Resurgent Capital Services<br/>P. O. Box 10390<br/>Greenville, SC 29603-0390</b><br>Telephone number: (866) 464-0087   | Court Claim Number:<br>(If known)   |                |                    |
| Name and address where payment should be sent (if different from above):<br><br>Telephone number:  | <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.<br><input type="checkbox"/> Check this box if you are the debtor or trustee in this case.             |                |                    |
| 1. Amount of Claim as of date Case Filed: <b>\$1,106.26</b>  | 5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.   |                |                    |
| If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4   | Specify the priority of the claim.  |                |                    |
| If all or part of your claim is entitled to priority, complete item 5.   | <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).   |                |                    |
| <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim.<br>Attach itemized statement or charges.   | <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507(a)(4).  |                |                    |
| 2. Basis for Claim: <b>DELL BUSINESS CREDIT</b><br>(See instruction #2 on reverse side.)   | <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507(a)(5).  |                |                    |
| 3. Last four digits of any number by which creditor identifies the debtor: <b>9348</b>   | <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507(a)(7).  |                |                    |
| 3a. Debtor may have scheduled account as:<br>(see instruction #3a on reverse side.)  | <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507(a)(8).  |                |                    |
| 4. Secured Claim (See instruction #4 on reverse side.)<br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information  | <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507(a).<br><br>Amount entitled to priority:<br><b>\$ _____</b>  |                |                    |
| Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input checked="" type="checkbox"/> Other   | <br><i>*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</i>  |                |                    |
| Describe: SEE ATTACHMENT "A"   |   |                |                    |
| Value of property: <b>\$593.36</b>   | Annual Interest Rate: %   |                |                    |
| Amount of arrearage and other charges as of time case filed included in secured claim,<br>if any: <b>\$</b>  | Basis for perfection:   |                |                    |
| Amount of Secured Claim: <b>\$593.36</b>   | Amount Unsecured: <b>\$512.90</b>   |                |                    |
| 6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.  |   |                |                    |
| 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See definition of "redacted" on reverse side.) |   |                |                    |
| DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.  |   |                |                    |
| If the documents are not available, please explain:  |   |                |                    |
| Date: <b>09/15/08</b>  | Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach power of attorney, if any. |                | FOR COURT USE ONLY |
| <br><b>Joyce Monjoi, Bankruptcy Recovery Manager of Resurgent Capital Services</b>  |   |                |                    |

*Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.*

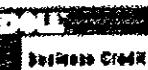


|   |            |
|---|------------|
| <b>Account Number:</b>                          | 9348       |
| <b>Origination Date:</b>                        | 11/12/07   |
| <b>Original Asset Value:</b>                    | \$1,186.72 |
| <b>Depreciation %:</b>                          | 50.00%     |
| <b>Secured Amount (Residual Value = \$200):</b> | \$593.36   |
| <b>Unsecured Amount:</b>                        | \$512.90   |
| <b>Total Claim Amount:</b>                      | \$1,106.26 |

**ATTACHMENT "A" TO PROOF OF CLAIM  
FOR DELL FINANCIAL SERVICES, L.L.C.**

1. Dell Financial Services, L.L.C. (hereinafter referred to as "DFS"), supplied and sold to the above named Debtor certain goods including, but not limited to, computers, monitors, televisions, servers and other products. Generally, the orders for such products were received via e-mail from the Debtor and were agreed to through a series of acceptances set forth on the contractual forms. The terms and conditions as agreed to by the Debtor for the purchase are attached hereto. DFS owns a purchase money security interest in the product sold to the Debtor.

NOTE: CLAIMANT RESERVES THE RIGHT TO AMEND THIS PROOF OF CLAIM AS FURTHER INFORMATION BECOMES AVAILABLE. PARTIES REQUESTING DOCUMENTS DESCRIBED IN THIS PROOF OF CLAIM AND ATTACHED SCHEDULE MAY CONTACT THE CLAIMANT AT THE ABOVE ADDRESS AND TELEPHONE NUMBER TO OBTAIN COPIES OF SAME AT SUCH PARTY'S EXPENSE.



# DELL Financial Services

## Dell Business Credit Summary

Revolving Account: **000-1002-0001-009 348**

Page 1 of 1  
[www.dell.com/dfs](http://www.dell.com/dfs)  
 See reverse side for important account  
 information and contact information.  
 Toll-Free # 866-413-3355

|                          |            |                             |              |
|--------------------------|------------|-----------------------------|--------------|
| Previous Balance         | \$1,132.00 | Statement Closing Date      | May 01, 2008 |
| Purchase & Other Debits  | \$15.00    | Payments                    | \$57.00      |
| Periodic Finance Charges | \$16.26    | Other Credits & Adjustments | \$0.00       |
| Other Charges            | \$0.00     | New Balance                 | \$1,106.26   |

|                            |              |
|----------------------------|--------------|
| Payment Due Date:          | May 26, 2008 |
| Current Month Due:         | \$28.00      |
| Past Due Amount:           | \$0.00       |
| Total Minimum Payment Due: | \$28.00      |

## DFS Available Credit

|                             |             |
|-----------------------------|-------------|
| Total DFS Credit Line       | \$15,000.00 |
| Total Available Credit Line | \$13,893.74 |
| Amount Over Credit Limit:   | -           |

Your business has \$13,893.74 in available credit with Dell Financial Services. Depending on your financing objectives, this credit line is available to your company for use with any of our revolving credit, lease or loan products. Call your sales representative or visit online to determine which option is best for your company.

## Transaction Detail

| Transaction Date | Description                       | Reference # | Amount  |
|------------------|-----------------------------------|-------------|---------|
| 04-11-08         | PAYMENT - THANK YOU!              |             | -\$7.00 |
| 04-12-08         | PHONE PAY FEE                     |             | 15.00   |
| 05-01-08         | BILLED FINANCE CHARGES            |             | 16.26   |
| 05-01-08         | FINANCE CHARGE RATE CHANGED TODAY |             | .00     |

## Finance Charge Summary (Please see reverse side for important information)

| Plan Type    | Promotion Expiration Date | Balance Subject to Finance Charge | Daily Periodic Rate | Corresponding Interest Rate | Days in Cycle | FINANCE CHARGES | Promotion Plan Deferred Finance Charges | New Plan Balance | Minimum Amount Due Per Plan |
|--------------|---------------------------|-----------------------------------|---------------------|-----------------------------|---------------|-----------------|---|------------------|-----------------------------|
| REGULAR PLAN |                           | \$1,106.26                        | 0.04915%            | 17.99%                      | 30            | \$16.26         |   | \$1,106.26       | \$28.00                     |

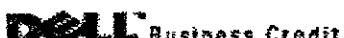
### Special Messages

Is your DBC payment due today?

Take advantage of our NEW automated phone payment option for just \$9.95!  
 Simply call 866-413-3355 and follow the automated prompts.

000-1002-0001-009 348

Please return this portion with payment. Do not staple or fold.



Account #:

Total Minimum Payment Due: \$28.00

Payment Due Date: May 26, 2008

Home Address: 10 Exchange Plaza  
 Floor 10, Suite 1000, New York, NY 10005  
 Phone: 212-904-2712

Amount \$  
 Enclosed:

Please make your check payable to: Dell Business Credit  
 Include your account number on your check or money order.



000-1002-0001-009 348  
 CARLIN MICHAEL  
 40 EXCHANGE PL STE 1928  
 NEW YORK NY 10005-2712



000-1002-0001-009 348  
 DELL BUSINESS CREDIT  
 PAYMENT PROCESSING CENTER  
 P.O. BOX 5275  
 CAROL STREAM, IL 60197-5275

000-1002-0001-009 348 0000110626000028000000280005262008000005700



**Fines or demand payment in order to take this action.** As described below under "Actions Against You," we can cause or suspend your rights to charge additional purchases by you if you do any of the following:

**Collection Costs and Attorney Fees.** As permitted by law, you agree to pay all reasonable attorney fees, court costs, and other collection costs, actually incurred by us in the collection of any amounts you owe us under this Agreement or which are accorded to us in full payment of your bankruptcy or insolvency.

**Security Interest.** To the extent permitted by applicable law, you hereby grant to us an interest in any personal property security interest under the Uniform Commercial Code or any other law in the merchandise purchased by you on Account until such merchandise is paid for in full. We may file a financing statement or other document necessary to perfect our security interest in your personal property.

**Assignment.** We may assign this Agreement or any part hereof at any time and for any reason without notice to you. We may also assign this Agreement to your account with your bank or trust company for your Account. No cancellation of this Agreement will affect your obligations to us under this Agreement.

**Account Cancellation.** You may cancel your Account at any time by notifying us in writing. We may at any time cancel your Account without prior notice if we determine that you have violated any provision of this Agreement or if you have failed to make payments to us on time for three consecutive months. In addition, we may at any time and for any reason terminate your Account. Upon cancellation, we may require you to pay all the outstanding balance of your Account. No cancellation of this Agreement will affect your obligations to us under this Agreement.

**Waiver.** We do not make a minimum payment due on your Account or suspension of your Account. We may require you to pay any amount due on your Account or suspension of your Account at any time. We do not waive this provision of this Agreement.

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Notified by 16 CFR 435.2, you agree that claims relating to your purchases, including any defect or warranty, related to the purchases, are not our responsibility.

**ARBITRATION NOTICE**  
THIS AGREEMENT CONTAINS AN ARBITRATION CLAUSE. PLEASE READ THIS PROVISION CAREFULLY. IT PROVIDES THAT ANY CLAIM RELATING TO YOUR ACCOUNT MAY BE RESOLVED BY BRINGING ARBITRATION, INSTEAD OF COURT. YOU ARE ENTITLED TO A FAIR HEARING BUT THE ARBITRATION PROCEDURES ARE SIMPLER AND MORE LIMITED THAN THOSE APPLICABLE IN COURT, AND ARBITRATION DECISIONS ARE SUBJECT TO VERY LIMITED REVIEW. CLAIMS MAY BE ARBITRATED ONLY ON AN INDIVIDUAL BASIS, UNLESS YOU AND THE COMPANY BOTH AGREE IN WRITING TO ARBITRATE A CLASS ACTION. YOU MAY NOT FILE A CLASS ACTION OR RESEAL A CLASS ACTION OR REOPEN A CLASS ACTION OR REFILE A CLASS ACTION OR REOPEN A CLASS ACTION OR REFILE A CLASS ACTION.

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# MICHAEL D. CARLIN

Attorney and Counsellor at Law

21st. Floor

26 Broadway

New York, New York 10004

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E-MAIL: mcarlin721@aol.com

TEL.: (212) 269-3100

FAX: (212) 269-7032

October 29, 2008

Roundup Funding, LLC  
MS 550  
POB 91121  
SEATTLE, WA 98111-9221

**Re: Michael D. Carlin**  
Chapter 13 Case No. 08-11689  
Southern District of New York  
Acct. #\*\*\*\*\*6761

To Whom It May Concern:

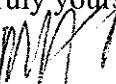
Please be advised that the undersigned has filed a Chapter 13 petition in the above-referenced matter. A proof of claim was by your office in the amount of \$946.00, a copy of which is attached for your consideration.

Please be advised that the debtor disputes whether Roundup Funding, LLC either purchased or was assigned this or any other one of debtor's accounts. Pursuant to relevant Bankruptcy Court authority (*In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471), please send to the debtor at the address listed above verification that Roundup Funding, LLC purchased this account from any other entity. In accordance with the Uniform Commercial Code, please provide copies of the Assignment(s) and other documents showing that Roundup Funding, LLC is the Assignee of the debt and that you are legally authorized to collect this debt from the debtor. Please also provide the full corporate name and address of the original creditor(s). If Roundup Funding, LLC did not receive this account from the original creditor, provide documentation of assignment(s) from the original creditor to the creditor from whom Roundup Funding, LLC was assigned the account.

\* Please be advised that the debtor also disputes the liability and the amount claimed in this proof of claim. In reliance upon relevant Bankruptcy Court authorities, the debtor is entitled to demand and now hereby demands the following supporting documentation: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc. (In re Heath)*, 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471 at 481.

If you are unable to provide proof as to any of the items demanded above, I expect that the proof of claim will be withdrawn immediately. Otherwise, I shall consider the proof of claim to be fraudulent and will move the court two weeks after today's date to disallow and expunge the proof of claim.

Very truly yours,



MICHAEL D. CARLIN

| UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK AT NEW YORK  |   | PROOF OF CLAIM     |
|---|---|--------------------|
| Name of Debtor: MICHAEL D CARLIN  | Case Number: 08-11689<br>Ch 13  |                    |
| NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.   |   |                    |
| Name of Creditor (the person or other entity to whom the debtor owes money or property):<br>Roundup Funding, LLC  | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.  |                    |
| Name and address where notices should be sent:<br><br>Roundup Funding, LLC<br>MS 550<br>PO Box 91121<br>Seattle, WA 98111-9221  | Court Claim Number: _____<br>(if known)   |                    |
| Telephone number: (866) 670-2361  | Filed on: _____   |                    |
| Name and address where payment should be sent (if different from above):<br><br>Telephone number:   | <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.<br><br><input type="checkbox"/> Check this box if you are the debtor or trustee in this case.                 |                    |
| 1. Amount of Claim as of Date Case Filed: \$946.00<br><br>If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.<br><br>If all or part of your claim is entitled to priority, complete item 5.<br><br><input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.  | 5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.<br><br>Specify the priority of the claim.   |                    |
| 2. Basis for Claim: Credit Card<br>(See instruction #2 on reverse side.)  | <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).   |                    |
| 3. Last four digits of any number by which creditor identifies debtor: XXXXXXXX6761<br><br>3a. Debtor may have scheduled account as: Chase Bank USA, N.A.<br>(See instruction #3a on reverse side.)   | <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4).   |                    |
| 4. Secured Claim (See instruction #4 on reverse side.)<br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.<br><br>Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br>Describe: _____  | <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5).<br><br><input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).        |                    |
| Value of Property: \$_____ Annual Interest Rate ____%<br><br>Amount of arrearage and other charges as of time case filed included in secured claim,<br>if any: \$_____ Basis for perfection: _____  | <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).<br><br><input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(____).<br><br>Amount entitled to priority:<br>\$_____  |                    |
| Amount of Secured Claim: \$_____      Amount Unsecured: \$_____   |   |                    |
| 6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.   |   |                    |
| 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See definition of "redacted" on reverse side.)<br><br>DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. |   |                    |
| If the documents are not available, please explain: SEE ATTACHMENT(S)   | *Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.   |                    |
| Date: 8/19/2008   | Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. | FOR COURT USE ONLY |
| <p style="text-align: center;"><i>[Signature]</i><br/>/s/<br/>STEVEN G. KANE<br/>Authorized Agent for Roundup Funding, LLC<br/>E-MAIL: BLINE.CHAPTER13@BLINELLCC.COM</p>  |   |                    |

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.



**ACCOUNT INFORMATION**

|                       |                      |
|-----------------------|----------------------|
| Debtor(s) Name:       | CARLIN, MICHAEL D    |
| Debtor(s) SSN:        | XXX-XX-2914          |
| Account Number:       | XXXXXXXXXXXX6761     |
| Creditor Name:        | Roundup Funding, LLC |
| Assignor:             | Chase Bank USA, N.A. |
| Open Date:            | 10/22/1995           |
| Last Payment Date:    | 04/07/2008           |
| Charge Off Date:      | 07/08/2008           |
| Balance as of Filing: | \$946.00             |
| Basis for Claim:      | Credit Card          |

**CASE INFORMATION**

|                         |                               |
|-------------------------|-------------------------------|
| Case Number:            | 08-11689                      |
| Bankruptcy Filing Date: | 05/05/2008                    |
| Current Chapter:        | 13                            |
| Court District:         | SOUTHERN DISTRICT OF NEW YORK |
| Court City:             | NEW YORK                      |
| Trustee:                | JEFFREY L SAPIR-13            |
| Counsel for Debtor(s):  | PRO SE                        |

This claim is based on an unsecured account acquired from Assignor. Pursuant to Instruction 7, above is a redacted version of the information contained in the computer files documenting the account.

This information substantially conforms to 11 U.S.C. § 501, Federal Bankruptcy Rule 3001 and the Instructions to Form B10. See, e.g., *In re Moreno*, 34 B.R. 813 (Bankr. S.D. Fla. 2006); *In re Cluff*, 2006 WL 2820005 (Bankr. Utah 2006); *In re Heath*, 331 B.R. 424 (9th Cir. B.A.P. 2005); *In re Dove-Nation*, 318 B.R. 147 (8th Cir. B.A.P. 2004); *In re Guidry*, 321 B.R. 712 (Bankr. N.D. Ill. 2005); *In re Burkett*, 329 B.R. 820 (Bankr. N.D. Ohio 2005); *In re Lapsansky*, 2006 WL 3859243 (Bankr. E.D. Pa. 2006); *In re Irons*, 343 B.R. 32 (Bankr. N.D. NY 2006).



# MICHAEL D. CARLIN

Attorney and Counsellor at Law

21st. Floor

26 Broadway

New York, New York 10004

---

E-MAIL: mcarlin721@aol.com

TEL.: (212) 269-3100

FAX: (212) 269-7032

October 29, 2008

Roundup Funding, LLC  
MS 550  
POB 91121  
SEATTLE, WA 98111-9221

Re: Michael D. Carlin  
Chapter 13 Case No. 08-11689  
Southern District of New York  
Acct. #\*\*\*\*\*5749

To Whom It May Concern:

Please be advised that the undersigned has filed a Chapter 13 petition in the above-referenced matter. A proof of claim was by your office in the amount of \$2830.34, a copy of which is attached for your consideration.

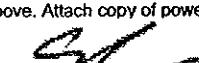
Please be advised that the debtor disputes whether Roundup Funding, LLC either purchased or was assigned this or any other one of debtor's accounts. Pursuant to relevant Bankruptcy Court authority (*In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471), please send to the debtor at the address listed above verification that Roundup Funding, LLC purchased this account from any other entity. In accordance with the Uniform Commercial Code, please provide copies of the Assignment(s) and other documents showing that Roundup Funding, LLC is the Assignee of the debt and that you are legally authorized to collect this debt from the debtor. Please also provide the full corporate name and address of the original creditor(s). If Roundup Funding, LLC did not receive this account from the original creditor, provide documentation of assignment(s) from the original creditor to the creditor from whom Roundup Funding, LLC was assigned the account.

Please be advised that the debtor also disputes the liability and the amount claimed in this proof of claim. In reliance upon relevant Bankruptcy Court authorities, the debtor is entitled to demand and now hereby demands the following supporting documentation: (1) the underlying agreement and the actual credit card charges constituting the basis for the claim; *See Heath v. American Express Travel Related Services Co., Inc.* (*In re Heath*), 331 B.R. 424, 432 (B.A.P. 9th Cir. 2005); (2) account [summary] . . . containing the debtor's name, account number, the prepetition account balance, interest rate, and a breakdown of the interest charges, finance charges and other fees [collectively, "Other Charges"] that make up the balance of the debt, or attach enough monthly statements so that this information can be easily determined; *In re Armstrong*, 320 B.R. at 106; *in Re: Dale J. Porter* 374 B.R. 471 at 481.

If you are unable to provide proof as to any of the items demanded above, I expect that the proof of claim will be withdrawn immediately. Otherwise, I shall consider the proof of claim to be fraudulent and will move the court two weeks after today's date to disallow and expunge the proof of claim.

Very truly yours,

  
MICHAEL D. CARLIN

| UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK AT NEW YORK   |   | PROOF OF CLAIM            |
|--|---|---------------------------|
| Name of Debtor: MICHAEL D CARLIN   | Case Number: 08-11689<br>Ch 13  |                           |
| <p><b>NOTE:</b> This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.</p>  |   |                           |
| Name of Creditor (the person or other entity to whom the debtor owes money or property):<br><b>Roundup Funding, LLC</b>  | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.  |                           |
| Name and address where notices should be sent:<br><br><b>Roundup Funding, LLC</b><br>MS 550<br>PO Box 91121<br>Seattle, WA 98111-9221  | <b>Court Claim Number:</b> _____<br>(If known)  |                           |
| Telephone number: (866) 670-2361   | Filed on: _____   |                           |
| Name and address where payment should be sent (if different from above):   | <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.   |                           |
| Telephone number:  | <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.  |                           |
| <b>1. Amount of Claim as of Date Case Filed:</b> <u>\$2,830.34</u><br>If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.<br><br>If all or part of your claim is entitled to priority, complete item 5.<br><br><input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges. | <b>5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a).</b> If any portion of your claim falls in one of the following categories, check the box and state the amount.<br><br>Specify the priority of the claim.  |                           |
| <b>2. Basis for Claim:</b> <u>Credit Card</u><br>(See instruction #2 on reverse side.)   | <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).   |                           |
| <b>3. Last four digits of any number by which creditor identifies debtor:</b> <u>XXXXXXXXXX5749</u><br><b>3a. Debtor may have scheduled account as:</b> <u>Chase Bank USA, N.A.</u><br>(See instruction #3a on reverse side.)  | <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4).   |                           |
| <b>4. Secured Claim</b> (See instruction #4 on reverse side.)<br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.  | <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5).   |                           |
| <b>Nature of property or right of setoff:</b> <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br><b>Describe:</b><br>Value of Property: \$_____ Annual Interest Rate _____%   | <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).   |                           |
| <b>Amount of arrearage and other charges as of time case filed included in secured claim,</b><br><b>If any:</b> \$_____ <b>Basis for perfection:</b> _____   | <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).   |                           |
| <b>Amount of Secured Claim:</b> \$_____ <b>Amount Unsecured:</b> \$_____   | <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)_____.<br><br><b>Amount entitled to priority:</b> \$_____  |                           |
| <b>6. Credits:</b> The amount of all payments on this claim has been credited for the purpose of making this proof of claim.   |   |                           |
| <b>7. Documents:</b> Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See definition of "redacted" on reverse side.)                            |   |                           |
| <b>DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.</b>   |   |                           |
| If the documents are not available, please explain: <u>SEE ATTACHMENT(S)</u>   |   |                           |
| Date: 8/19/2008  | <b>Signature:</b> The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.<br><br><br><i>/s/</i><br><b>STEVEN G. KANE</b><br>Authorized Agent for Roundup Funding, LLC<br>E-MAIL: BLINE.CHAPTER13@BLINELLC.COM |                           |
|  |   | <b>FOR COURT USE ONLY</b> |

*\*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.*



*Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.*

## ACCOUNT INFORMATION

|                       |                      |
|-----------------------|----------------------|
| Debtor(s) Name:       | CARLIN, MICHAEL      |
| Debtor(s) SSN:        | XXX-XX-2914          |
| Account Number:       | XXXXXXXXXXXX5749     |
| Creditor Name:        | Roundup Funding, LLC |
| Assignor:             | Chase Bank USA, N.A. |
| Open Date:            | 06/27/1997           |
| Last Payment Date:    | 04/07/2008           |
| Charge Off Date:      | 07/08/2008           |
| Balance as of Filing: | \$2,830.34           |
| Basis for Claim:      | Credit Card          |

## CASE INFORMATION

|                         |                               |
|-------------------------|-------------------------------|
| Case Number:            | 08-11689                      |
| Bankruptcy Filing Date: | 05/05/2008                    |
| Current Chapter:        | 13                            |
| Court District:         | SOUTHERN DISTRICT OF NEW YORK |
| Court City:             | NEW YORK                      |
| Trustee:                | JEFFREY L SAPIR-13            |
| Counsel for Debtor(s):  | PRO SE                        |

This claim is based on an unsecured account acquired from Assignor. Pursuant to Instruction 7, above is a redacted version of the information contained in the computer files documenting the account.

This information substantially conforms to 11 U.S.C. § 501, Federal Bankruptcy Rule 3001 and the Instructions to Form B10. See, e.g., *In re Moreno*, 34 B.R. 813 (Bankr. S.D. Fla. 2006); *In re Cluff*, 2006 WL 2820005 (Bankr. Utah 2006); *In re Heath*, 331 B.R. 424 (9th Cir. B.A.P. 2005); *In re Dove-Nation*, 318 B.R. 147 (8th Cir. B.A.P. 2004); *In re Guidry*, 321 B.R. 712 (Bankr. N.D. Ill. 2005); *In re Burkett*, 329 B.R. 820 (Bankr. N.D. Ohio 2005); *In re Lapsansky*, 2006 WL 3859243 (Bankr. E.D. Pa. 2006); *In re Irons*, 343 B.R. 32 (Bankr. N.D. NY 2006).



**BECKET & LEE LLP**  
ATTORNEYS AT LAW

THOMAS A. LEE, III\*  
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WILLIAM J. BECKET  
  
KENNETH W. KLEPPINGER\*  
NATALIE M. MC GHEE\*  
WILLIAM A. MC NEAL\*  
CRYSTAL D. JONES\*

ALANE A. BECKET\*  
JOHN D. SHEEHAN\*  
GILBERT S. WEISMAN\*  
  
MARGARET E. SCHIAVONE\*  
MICHELLE L. MC GOWAN\*  
CYNTHIA L. GROFF\*  
DAWN S. OSMAN\*

16 GENERAL WARREN BOULEVARD  
P.O. BOX 3001  
MAJVERN, PA 19355  
(610) 644-7800  
FACSIMILE: (610) 993-8493

MILTON BECKET, OF COUNSEL

SENDER'S EXT.\_\_\_\_\_

November 11, 2008

\* ALSO MEMBER NJ BAR  
\* ALSO MEMBER FL BAR  
\* ALSO MEMBER CA BAR

**VIA EMAIL**

Michael D. Carlin, Esquire  
26 Broadway  
21<sup>st</sup> Floor  
New York, NY 10004

**RE: Michael D. Carlin, Pro Se Debtor.  
Bankruptcy Number: 08-11689  
Claim Numbers 4, 9, 10, 11, 12, 13, 14, 15 and 16**

Dear Mr. Carlin:

As you are aware, Becket & Lee LLP represents American Express Travel Related Services Co., Inc. and American Express Centurion Bank (collectively "American Express"), FIA Card Services aka Bank of America ("FIA"), and eCAST Settlement Corporation ("eCAST") in the above-referenced bankruptcy. We are in receipt of your letters dated October 29, 2008 disputing the liability of several accounts and requesting copies of the agreements and actual credit card charges constituting the basis of the claims. Your letters regarding American Express Claim Numbers 4 and 9 further dispute the amounts of the claims because the creditors did not abide by their agreements not to charge interest and penalties so long as the debtor participated in a debt management program, which the debtor did. Your letter regarding FIA Claim Number 16 further requests verification that FIA purchased this account from MBNA or any other entity and copies of the Assignment showing that FIA is the assignee of the debt.

Claim Number 4 represents the debtor's personal American Express credit card account number 372764062225009. At the time the American Express card was issued and with each renewal card thereafter, the debtor was issued a copy of the agreement entitled "Agreement Between Gold Card Member and American Express Travel Related Services Company, Inc." a copy of which is enclosed. The Agreement sets forth the liability of the debtor, *to wit*:

**Welcome to American Express Cardmembership**

...When you keep, sign or use the Card issued to you (including any renewal or replacement Cards), or you use the account associated with this Agreement (your "Card Account"), you agree to the terms of this Agreement. The words "you", "your" and "yours" mean the person who applied for the Card Account and the

Carlin  
November 11, 2008  
Page 2 of 3

person to whom we address billing statements, as well as any person who agrees to be liable on the Card Account. The "Basic Cardmember" is the person who opened the Card Account.

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**Promise to Pay**

You promise to pay all Charges, including Charges incurred by Additional Cardmembers, on your Account.

---

As noted above, the debtor is liable for the account represented by Claim Number 4.

Also enclosed are copies of account statements, dated January, 2007 through May, 2008. The statements reflect the debtor's name, account number and account activity, including monthly payments. According to the information received from American Express, American Express agreed to accept payment in the total amount of \$2,584.85 payable at the rate of \$53.00 a month. Pursuant to the statements, it appears the debtor was making monthly payments up until the bankruptcy filing in May, 2008. If the debtor paid the amount as agreed, interest accrued during that time would have been forgiven. However, the debtor did not complete his payments and therefore the interest accrued remains. The pre-petition balance due and owing on the account is \$1,474.31. Claim Number 4 is currently being amended to reflect this balance.

**Claim Number 9** represents the debtor's personal American Express credit card account number 373020976423001. At the time the American Express card was issued and with each renewal card thereafter, the debtor was issued a copy of the agreement entitled "Agreement Between Optima Platinum Card Member and American Express Centurion Bank" a copy of which is enclosed. The Agreement sets forth the liability of the debtor, *to wit*:

**Welcome to American Express Cardmembership**

...When you keep, sign or use the Card issued to you (including any renewal or replacement Cards), or you use the account associated with this Agreement (your "Account"), you agree to the terms of this Agreement. The words "you", "your" and "yours" mean the person who applied for the Account and the person to whom we address billing statements, as well as any person who agrees to be liable on the Account. The "Basic Cardmember" is the person who opened the Card Account.

---

**Promise to Pay**

You promise to pay all Charges, including Charges incurred by Additional Cardmembers, on your Account.

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As noted above, the debtor is liable for the account represented by Claim Number 9.

Also enclosed are copies of account statements, dated January, 2007 through April, 2008. The statements reflect the debtor's name, account number and account activity, including

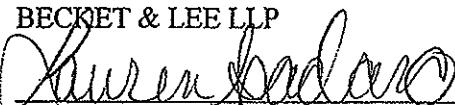
Carlin  
November 11, 2008  
Page 3 of 3

monthly payments. According to the information received from American Express, American Express agreed to accept payment in the total amount of \$16,662.61 payable at the rate of \$347.00 a month. Pursuant to the statements, it appears the debtor was making monthly payments up until the bankruptcy filing in May, 2008. If the debtor paid the amount as agreed, the interest accrued during that time would have been forgiven. However, the debtor did not complete his payments and therefore the interest accrued remains. The pre-petition balance due in owing on the account is \$17,964.07.

**Claim Number 16** represents the debtor's FIA credit card account number 5490990144000716. FIA Card Services is a division of Bank of America. FIA Card Services was formerly known as MBNA. Therefore, there is no assignment of this claim. In further support of Claim Number 16, enclosed are copies of the debtor's Bank of America account statements, dated January, 2008 through May, 2008, which reflect the debtor's name, account number and monthly account activity, including payments. The May statement reflects a pre-petition balance due in the amount of \$14,805.02 which supports Claim Number 16.

Please be advised that we are in the process of obtaining documentation in support of Claim Numbers 10, 11, 12, 13, 14, and 15 and will forward it to you immediately upon its availability.

I trust the enclosed documentation is sufficient. If you have any questions or concerns, please feel free to contact me.

Very truly yours,  
BECKET & LEE LLP  
BY:   
Lauren Spadaro, Paralegal  
[lspadaro@becket-lee.com](mailto:lspadaro@becket-lee.com)

/lms  
Enclosures

Subj: **FW: Michael Carlin #08-11689**  
Date: 12/10/2008 3:28:41 P.M. Eastern Standard Time  
From: [lspadaro@becket-lee.com](mailto:lspadaro@becket-lee.com)  
To: [mcarlin721@aol.com](mailto:mcarlin721@aol.com)

**Lauren Spadaro**  
Becket & Lee LLP  
16 General Warren Blvd.  
Malvern, PA 19355  
(610) 644-7800 ext. 2618  
Fax: (610) 993-8493  
[lspadaro@becket-lee.com](mailto:lspadaro@becket-lee.com)

---

**From:** Lauren Spadaro  
**Sent:** Thursday, November 20, 2008 8:42 AM  
**To:** 'mcarlin721@aol.com'  
**Subject:** Michael Carlin #08-11689  
**Importance:** High

**RE: Michael D. Carlin, Pro Se Debtor.**  
**Bankruptcy Number: 08-11689**  
**Claim Numbers 4, 9, 10, 11, 12, 13, 14, 15 and 16**

Dear Mr. Carlin:

As you are aware, Becket & Lee LLP represents American Express Travel Related Services Co., Inc. and American Express Centurion Bank (collectively "American Express"), FIA Card Services aka Bank of America ("FIA"), and eCAST Settlement Corporation ("eCAST") in the above-referenced bankruptcy. We are in receipt of your letters dated October 29, 2008 disputing the liability of several accounts and requesting copies of the agreements and actual credit card charges constituting the basis of the claims. On November 11, 2008, we provided you with documentation in support of Claim Numbers 4, 9, and 16. Enclosed is documentation in support of the remaining Numbers 10, 11, 12, 13, 14, and 15.

**Claim Number 10** represents the debtor's Capital One Bank credit card account number 4388647091112575. Capital One Bank sold the debtor's account to eCAST. In further support of Claim Number 10, enclosed is a true and correct copy of the Bill of Sale of the account represented by Claim Number 10 from Capital One Bank to eCAST and copies of the debtor's account statements, dated December, 2007 through April, 2008, which reflect the debtor's name, account number and monthly account activity, including payments and charges. The April statement reflects a pre-petition balance due in the amount of \$4,089.56 which supports Claim Number 10.

**Claim Number 11** represents the debtor's FIA Card Services aka Bank of America ("Bank of America") credit card account number 4888936235583220, also known as 4888607000461344. At the time Claim Number 11 was filed, the account was owned by Bank of America. (The claim noted that it was being filed by eCAST, as agent for the creditor.) Subsequent to the filing of Claim Number 11, Bank of America sold the debtor's account to eCAST. A transfer of Claim Number 11 was filed with the court on November 6, 2008. In further support of Claim Number 11, enclosed are copies of the debtor's account statements, dated January, 2008 through May, 2008, which reflect the debtor's name, account numbers and monthly account activity, including payments. The May statement reflects a pre-petition balance due in the amount of \$3,729.83 which supports Claim Number 11.

**Claim Number 12** represents the debtor's Chase Bank USA, N.A. ("Chase") credit card account number 4266921010175113. At the time Claim Number 12 was filed, the account was owned by Chase. (The claim noted that it was being filed by eCAST, as agent for the creditor.) Subsequent to the filing of Claim Number 12, Chase sold the debtor's account to eCAST. A transfer of Claim Number 12 was filed with the court on November

6, 2008. In further support of Claim Number 12, enclosed are copies of the debtor's account statements, dated January, 2008 through April, 2008, which reflect the debtor's name, account number and monthly account activity, including payments. The April statement reflects a pre-petition balance due in the amount of \$3,179.30 which supports Claim Number 12.

**Claim Number 13** represents the debtor's Chase credit card account number 5323503490807171. At the time Claim Number 13 was filed, the account was owned by Chase. (The claim noted that it was being filed by eCAST, as agent for the creditor.) Subsequent to the filing of Claim Number 13, Chase sold the debtor's account to eCAST. A transfer of Claim Number 13 was filed with the court on November 6, 2008. In further support of Claim Number 13, enclosed are copies of the debtor's account statements, dated January, 2008 through April, 2008, which reflect the debtor's name, account number and monthly account activity, including payments. The April statement reflects a pre-petition balance due in the amount of \$3,856.72 which supports Claim Number 13.

**Claim Number 14** represents the debtor's Bank of America credit card account number 5490500016859147, also known as 5487890079903782. At the time Claim Number 14 was filed, the account was owned by Bank of America. (The claim noted that it was being filed by eCAST, as agent for the creditor.) Subsequent to the filing of Claim Number 14, Bank of America sold the debtor's account to eCAST. A transfer of Claim Number 14 was filed with the court on November 6, 2008. In further support of Claim Number 14, enclosed are copies of the debtor's account statements, dated January, 2008 through May, 2008, which reflect the debtor's name, account numbers and monthly account activity, including payments. The May statement reflects a pre-petition balance due in the amount of \$998.85 which supports Claim Number 14.

**Claim Number 15** represents the debtor's Chase credit card account number 5323503499289306. At the time Claim Number 15 was filed, the account was owned by Chase. (The claim noted that it was being filed by eCAST, as agent for the creditor.) Subsequent to the filing of Claim Number 15, Chase sold the debtor's account to eCAST. A transfer of Claim Number 15 was filed with the court on November 6, 2008. In further support of Claim Number 15, enclosed are copies of the debtor's account statements, dated January, 2008 through May, 2008, which reflect the debtor's name, account number and monthly account activity, including payments. The May statement reflects a pre-petition balance due in the amount of \$2,402.25 which supports Claim Number 15.

I trust the enclosed documentation is sufficient. If you have any questions or concerns, please feel free to contact me.

**Lauren Spadaro**  
Becket & Lee LLP  
16 General Warren Blvd.  
Malvern, PA 19355  
(610) 644-7800 ext. 2618  
Fax: (610) 993-8493  
[lspadaro@becket-lee.com](mailto:lspadaro@becket-lee.com)

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**EXHIBIT C**

~~American Express Cards~~  
Three World Financial Center  
200 Vesey Street, 43rd Floor  
New York, NY 10285-4302



February 08, 2008

MICHAEL CARLIN  
40 EXCHANGE PL SUITE #170  
NEW YORK, NY 10005

8248-230

American Express  
43rd Floor  
200 Vesey Street  
New York, NY 10285  
PAP-568-A

RE: American Express Account Number: 373020976423001

Dear MICHAEL CARLIN:

This letter is in reference to the above account enrolled in the American Express Consumer Debt Management Plan Interest Rate and Fee Waiver (CDMP IRW) Program. We appreciate your continued participation, and wanted to provide you with a reminder of the Program terms, your current status within the Program and explain to you some of the benefits associated with accelerating the completion of your plan.

#### Summary of Program Terms

As a reminder of the original CDMP IRW Program terms, you are required to pay the balance you owed to American Express when you entered the Program, making consistent equal payments over a plan period of 50 months. Upon successful completion, any interest and fees that have accrued on the account while it has been on the Program will be waived and credited to your account, and the account will be paid in full. If more than two payments are missed in a rolling twelve month period, you will no longer be eligible for an interest and fee waiver. The terms of the Program remain unchanged.

#### Your Progress to Date

As of the date of this letter, our records indicate that you have a remaining balance of \$8329.02 left to pay on your plan.

Your payment performance and compliance with the terms of the Program has been very good to date. However, the potential to miss payments month to month exists, and we want to see you receive the full benefit currently available to you.

#### An Opportunity to Accelerate Program Completion

If your individual financial situation allows, we encourage you to consider completing your plan with one payment of \$8329.02 or up to three sequential monthly payments. This completion will allow you to secure the following benefits:

- Waiver of \$10676.77, which is the current amount of interest and fees accrued since you enrolled in the Program.
- Avoid the risk of becoming responsible for \$19005.79 plus any additional interest and fees that may accrue on your account in the future if you fail to complete the plan according to its terms.
- Account designation as Paid-in-Full for credit bureau reporting purposes.

Whether or not you decide to accelerate your payments, please continue to work with your Credit Counseling Agency as we look forward to your successful completion of this Program. To discuss this option or questions you may have, please contact \*NCO at 800-237-8215.

Sincerely,

Alice Sweeney  
American Express

\*NCO Debt Management Services has been authorized by American Express to act as the administrator of American Express' Consumer Debt Management Plan

1220-T

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American Express Travel Related  
Services Company, Inc.